

## APPENDIX IV

### LEGISLATIVE REFERENCE BUREAUS

#### LETTER FROM THE LIBRARIAN OF CONGRESS TRANSMITTING SPECIAL REPORT, WITH TEXT OF PROPOSED BILLS

LIBRARY OF CONGRESS

OFFICE OF THE LIBRARIAN

*Washington, April 6, 1911*

Mr. PRESIDENT: The introduction, at the second session of the Sixty-first Congress, of several bills looking to the establishment of a legislative reference (and bill drafting) bureau at Washington indicates an interest in the subject which will induce discussion and perhaps specific action. The accompanying documents are submitted as contributing preliminary information which may be of service. They are:

#### LEGISLATIVE REFERENCE WORK

1. Memorandum as to the functions of such a bureau.
2. New York State: Two decades of Comparative Legislation. Extract from an address by Dr. Robert H. Whitten, librarian New York Public Service Commission, first district, at joint session of National Association of State Libraries and American Association of Law Libraries, July, 1909.
3. Wisconsin: Extract from a paper by Dr. Charles McCarthy (read before the Portland conference, 1905, of the American Library Association) descriptive of such functions and the requirements, based particularly upon the experience in Wisconsin.
4. Comparison of New York and Wisconsin plans for legislative reference work. Extract from an address by Mr. Johnson Brigham, State librarian of Iowa, before the National Association of State Libraries, May, 1907.
5. Compilation of laws establishing legislative reference bureaus in various States.
6. Legislative reference bulletins published in the various States.
7. Subjects treated in the reference lists issued by the Library of Congress.

#### INDEXES AND COMPILATIONS OF LAW

8. Extract from Librarian's letter of estimates of October 6, 1902, and a communication to the subcommittee on appropriations, December 3, 1902, with reference to a permanent corps for such a purpose.
9. Memorandum prepared in 1907 by Dr. George W. Scott, law librarian of the Library of Congress, on statutory law service. [The

work of preparing an index to the Statutes at Large, since completed by the issue of the second volume in January, 1911, was then in operation at the law library, under appropriation by Congress. The memorandum proposed that the corps of experts organized for this purpose should be continued and enlarged as a permanent corps for the preparation of other indexes, digests, and compilations of law.]

#### BILL DRAFTING

10. Extract from an address by Hon. James Bryce (British ambassador) before the New York State Bar Association, January 24, 1908.

11. Extract from F. J. Stimson's "Popular Law-making," 1910, entitled "The need of parliamentary draftsmen."

12. Extract from Recommendation of a Committee of the American Bar Association (headed by Judge Baldwin), "On improving methods of legislation," proposing (for each State and the United States) a "joint standing committee (of the legislative body) for the revision of bills," with power to employ experts.

13. Extract from Dr. Paul S. Reinsch "American legislatures and legislative methods," 1907.

14. Statutes and rules relating to bill drafting—New York and Connecticut.

15. Extracts from the messages of the governors of Connecticut; 1907, Gov. Woodruff; 1909, Gov. Lilley; 1911, Gov. Baldwin.

16. Bill drafting in Great Britain and the British colonies. Extracts from "Legislative methods and forms," by Sir Courtenay Ilbert, 1901, and from the Journal of the Society of Comparative Legislation, volumes 1-2, and new series, volumes 1-2.

#### STATISTICS

17. Bills and joint resolutions introduced in Congress and laws passed (56th to 61st Congresses, inclusive). State and Federal Legislation, 1906-7 and 1907-8.

#### BILLS INTRODUCED IN THE SIXTY-FIRST CONGRESS

18. Proposals for a national bureau: Bills introduced at the second session, Sixty-first Congress, also amendment to the sundry civil bill adopted in the Senate, but not included in the bill as enacted.

*General considerations.*—The main object is the improvement of legislation. The means proposed are—

1. Improvement in substance by the assurance of adequate data.
2. Improvement in form through the employment of experts considering form alone.

*The data.*—In so far as these consist of printed literature in its regular forms, they are already available to Congress in the Library of Congress, its collections (of statutes, decisions, commentaries, and the miscellaneous literature of statistic, theory, and discussion) being already one of the largest in the world, and undergoing improvement without stint.

All of the above is classified, catalogued, and made to respond to any particular query, whether from Congress as a whole or any committee of Congress or any individual Member. Lists of references to the material (whether document, monograph, society publication, or periodical) bearing upon particular topics under discussion in Congress—exactly such lists as are issued by certain State legislative reference bureaus—are issued by the Library of Congress (for examples see Appendix No. 7). Other such lists exist in typewritten form and are freely supplied upon request. A request, whether from Congress, or a committee, or a Member for similar references to topics not so broadly treated, is always met by the Library within its abilities. The staff of the Library includes men highly expert in the preparation of such lists, so far as this is within the scope of bibliography proper or research work of a bibliographic nature.

A legislative reference bureau goes further. It undertakes not merely to classify and to catalogue, but to draw off from a general collection the literature—that is, the data—bearing upon a particular legislative project. It indexes, extracts, compiles. It acquires extra copies of society publications and periodicals and breaks these up for the sake of the articles pertinent to a particular subject. It clips from newspapers; and it classifies the extracts, the compilations, the articles, and the clippings in scrapbook, or portfolio, or vertical file, in such a way that all material relating to that topic is kept together and can be drawn forth at a moment's notice. To printed literature it often adds written memoranda as to fact and even opinion as to merit, which it secures by correspondence with experts.

The above work, which organizes and concentrates all the data pertinent to a question in such form as to be readily responsive, is beyond the abilities of the Library with its present organization. The Library would gladly undertake it; it could undertake it without additional appropriation for the material itself, so far as this is in printed form; but it would require for it an enlargement of its present Divisions of Law, Documents, and Bibliography, and in addition the creation of a new division under the title of a Legislative or Congressional Reference Division.

*Indexes, digests, and compilations of law.*—As to the utility of such, and the qualifications requisite, I have no reason to modify the opinions submitted with my estimates of 1902. The ensuing experience with the index to the Statutes at Large but confirms the opinion that the work of indexing the statutes, even the Federal statutes of this country, requires scientific treatment by a corps of experts with a substantial general education, legal training, and experience in this class of work, and selected with regard solely to these qualifications. It confirms also the expectation that where the Library was charged with such a task the men would be so selected and the work would be scientifically accomplished.

Such a corps once organized and experienced, the economy of continuing it as a permanent bureau is obvious, as, on the other hand, is the extravagance of dispersing it. The corps which handled this par-

ticular work on the Federal Statutes would not of course be sufficiently large, or contain the varied accomplishments requisite for indexes, digests, and compilations of the various material of concern to Congress and to the Federal authorities; especially would it be lacking in experts qualified to deal with the legislation of foreign countries (the interest of which is of relatively small concern to State legislators, but is of increasing concern to Congress). The organization suggested in my estimates of 1902 might be suitable as a beginning; the salaries would, however, be altogether too small. The conduct of the work in particular should require a salary of \$5,000.

*Bill drafting.*—The drafting of bills, or the revision with reference to form of bills drafted and otherwise ready for enactment, certainly requires experts educated to an accurate use of the English language, trained in the law, competent to ascertain and compare precedent legislation, and, so far as practicable, exactly familiar with this. (See various appendixes, including the memorandum of our law librarian, 1907). The familiarity with antecedent and comparative legislation gained through the indexing, digesting, and compiling of it, would doubtless be a valuable auxiliary qualification in any bill drafter. It can not, however, be said that for the drafting of bills the current association with such other work is indispensable. The bill drafter should have its results at hand; should be expert in the use of them; but he need not necessarily himself have produced these results in order to utilize them properly.

Assuming therefore that the work of a legislative reference bureau (in addition to that part of it which is already being undertaken here), should be undertaken by the Library of Congress, and that the work of indexing, digesting, and compiling laws should be part of it, it does not necessarily follow that the drafting or revision of the bills themselves should be associated with it. That Congress should employ a corps of bill drafters is obvious; that these should be experts, and non-partisan, whose purpose would be purely scientific, is equally obvious; but these considerations ought not to imply that the qualifications could be secured only by the selection and maintenance of a corps outside of the legislative establishment. Congress might well prefer otherwise; and there seems no necessary obstacle to the creation of a corps of experts as part of the organization of Senate and House, provided Congress itself really desires that the sole considerations in the selection of the men shall be those above noted.

Wherever the work is to be placed, the provision for it should be ample. Its efficiency will depend not upon a large number of routine workers, but upon the high qualifications of a few. No expert adequate to such a task could be secured for less than a salary of \$5,000, and at least four or five experts of this grade should be requisite, aided by an auxiliary corps of clerks, stenographers, etc.

Even then it is clear that the service of such experts should not be dissipated needlessly. To invoke them at the initial stage of every bill introduced would be extravagant, and cast upon the corps an overwhelming burden (this will appear upon consideration of the num-



ber of bills introduced into a single Congress—during the Sixty-first, for instance, some 44,000). The drafters should be at the disposal of any committee considering or proposing to report a bill. Beyond this they ought not to be called upon, unless in connection with some projected bill of interest to a considerable group.

The organization requisite to a congressional (legislative) reference bureau will therefore depend upon the functions proposed for such a bureau, whether (1) merely the acquisition of the data, the organization of these to respond to the legislative need, and the aid to their use; or in addition to this, (2) the preparation of indexes, digests, and compilations of law not having directly such ends in view; or in addition to both the above, (3) the drafting and revision of bills.

In any case it must be emphasized—

1. That the organization must be elaborate beyond that provided by any State, since the subjects to be dealt with are far wider in scope, the material more remote, more complex, and more difficult, and the precedents less available.

2. That (the field being unique) the needs (in the way of organization) can be ascertained only by experiment. The first appropriation should be, therefore, a "lump sum."

3. That for the work to be scientific (i. e., having only truth as its object) it must be strictly nonpartisan; and that, therefore, whatever the appointing or administrative authority, the selection of the experts and the direction of the work should by law and in fact be assuredly nonpartisan.

Respectfully submitted

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*Librarian of Congress*

THE PRESIDENT OF THE SENATE

## LEGISLATIVE REFERENCE WORK

### EXHIBIT I.—FUNCTIONS OF A LEGISLATIVE REFERENCE BUREAU

The work of a legislative reference bureau may include any or all of the following kinds of service, ranging from library work proper to that which is purely legislative. Intermediate between these extremes are certain classes of work which are special extensions of the ordinary activities of a legislative library, of direct and immediate importance for legislation.

#### 1. LIBRARY WORK PROPER (already provided for at the Library of Congress):

- (a) *Acquisition of the literature.*—This is being undertaken at the Library of Congress to an extent probably unparalleled elsewhere, the collections of the Library (in statutes, reports, commentaries, and miscellaneous literature, and in the published indexes, digests, and compilations auxiliary to the use of these) being probably the largest extant and improved by incessant effort.

- (b) *Reference work*.—Selection of suitable material from the general collections to meet the demands of an individual legislator, with the aid of the subject catalogue of the Library and general reference works or from the reference librarian's personal knowledge of the subject.
  - (c) *Bibliographic work*.—Preparation of special lists of references on subjects of current interest to the legislator, with such critical and analytical notes as can readily be made, involving search for titles in printed catalogues of various libraries, bibliographies, indexes to periodicals, etc., and acquisition of publications of importance found to be wanting.
2. INDEXES, COMPILATIONS, AND DIGESTS OF LAWS, ETC. (index to the general laws in the Federal statutes up to 1907 completed and published by the Library of Congress).

- (a) *Indexes*.—Detailed indexing of statutes, court reports, Government documents, etc., of this and other countries to locate exactly by volume and page the text of laws on special subjects, decisions of the courts interpreting them, administrative regulations, and statistical or other information showing the results of their operation, to enable comparison to be made between the laws of various countries.

An appropriation of \$28,000 to enable the Library of Congress to prepare an index of comparative legislation was asked for in 1902 and succeeding years, but not granted.

- (b) *Compilations and digests*.—Compiling (and translating when necessary) from printed official sources, with the aid of the above index, exact legal, political, and economic information on subjects of current legislation, and digesting the same in legislative reference bulletins for immediate use in drafting bills, and to enable the legislator to judge of the merits of proposed laws without elaborate research.

The Wisconsin comparative legislation bulletins may be cited as examples.

### 3. SPECIAL COLLECTIONS.

- (a) *Testimony of experts*.—Collection of the opinions of specialists on subjects of current legislation or on a particular bill for the use of the committee to which it has been referred.
- (b) *Press opinions, magazine articles, etc.*—Collection of newspaper clippings, articles in magazines, etc., to show the state of public opinion in regard to projected legislation, and arrangement of the material in convenient files for ready reference during the discussions in the legislature.

## 4. LEGISLATIVE WORK.

- (a) *Bill drafting*.—Utilization of all of the resources of the bureau to draft bills or amendments in accordance with definite instructions furnished by a committee, a group of members, or, possibly, the Executive, involving a study of the existing law as interpreted by the courts, legislation for similar purposes in other countries, and the probable effect of the proposed enactment.
- (b) *Explanatory memoranda*.—Preparation of synopses of bills and brief notes explanatory of their provisions.

## EXHIBIT 2.—NEW YORK STATE

## TWO DECADES OF COMPARATIVE LEGISLATION

[Extract from address by Dr. Robert H. Whitten, librarian New York Public Service Commission, first district, at joint session of National Association of State Libraries and American Association of Law Libraries, July, 1909. In A. L. A. Bulletin, vol. 3, no. 5, p. 296-298.]

When in 1890 Melvil Dewey initiated the legislative reference movement by appointing a legislative librarian in the New York State library, he started a movement that has been most fruitful for the study of comparative legislation. In drafting a new law there is no more profitable study than an investigation of the laws and experience of other States and countries. Almost the first question asked in relation to a proposed enactment is as to whether the same law is already in force in any other State. It was natural, therefore, that an index to the current laws of the various States should be one of the first tasks of the legislative librarian, in order that he might serve most efficiently the needs of the legislature.

The comparative summary and index of State legislation, thus begun in 1890, at the New York State Library, has been continued now for almost 20 years. The work was first undertaken and the index started by W. B. Shaw, now one of the editors of the American Monthly Review of Reviews. It was later taken up and developed by E. Dana Durand, now director of the United States Census. Following Mr. Durand, I had the opportunity of continuing the work so well begun, for nine years, from 1898 to 1907, and it has since been continued, as you know, by Mr. Bramhall and Mr. Lester. In 1901 the scope of the work was materially broadened and its usefulness greatly increased, I think, by the addition of the annual review of legislation. In this review competent specialists review the legislation of the year, thus placing the new law in its relation to previous laws in the same or other States and subjecting it to careful evaluation and criticism.

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While we have the very highest conception of the legislative reference bureau and its work in comparative legislation, we realize that there are other very important factors necessary for the production of

efficient legislation. The legislative reference bureau will supply the systematic collection of information. It will collect and collate much of the information that will be needed in the scientific investigation of legislative problems.

In addition to a bureau for the collection and collation of information it is desirable that each proposed bill should be drafted or revised by expert draftsmen. This work in some States is being performed by official draftsmen, appointed by the legislature. In other States it is being taken up by the legislative reference bureaus. My own opinion is that the legislative reference bureau should proceed cautiously in this matter. While it is highly desirable that it should aid in the constructive work necessary for the elaboration of an important project of law, there is some danger that its time may be so taken up with the formal drafting and copying of innumerable petty bills that it will have insufficient time for the more important constructive work.

In addition to the legislative reference bureau and the bill-drafting work, it seems to me that for efficient legislation there must be in each State a State bureau of statistics with skilled accountants and statisticians continually at work collecting facts essential to intelligent legislation. There are numerous statistical facts that should be known in order to judge intelligently concerning the need of this or that proposed legislation. There are numerous statistical facts that should be currently reported and tabulated in order to judge as to what has been the actual effect and value of a given regulation or expenditure. It should be the business of the bureau of statistics to supply this knowledge.

But in addition to the legislative reference bureau, the official draftsman, and the bureau of statistics, in order that we may have efficient legislation, it is necessary that the special knowledge of the expert should be freely used. For the construction of a house we employ an architect, for the building of a bridge we employ an engineer, but for the elaboration of an intricate and technical statute no expert knowledge is deemed essential. This is the height of stupidity. Legislative committees should employ experts of all kinds—engineers, economists, accountants, physicians, actuaries, and in fact specialists of every class who are capable of disinterested scientific investigation.

With the development of a more efficient State administration the legislature will naturally look to the highly trained experts employed in the various departments to make the necessary scientific investigations for many of the proposed laws. As the State service becomes more permanent, as its importance increases with the complex duties of supervision and regulation, the number of highly trained men in the various departments increases.



## EXHIBIT 3.—WISCONSIN

[Extract from a paper on Wisconsin's legislative reference department, by Dr. Charles McCarthy. A. L. A. Papers and Proceedings, Portland Conference, 1905, pp 244-245.]

In answer to constant inquiries, I have compiled some essentials for work in helping the cause of good legislation, similar to the work done by our department here.

1. The first essential is a selected library convenient to the legislative halls. This library should consist of well-chosen and selected material. A large library is apt to fail because of its too general nature and because it is liable to become cumbersome. This library should be a depository for documents of all descriptions relating to any phase of legislation from all States, Federal Government, and particularly from foreign countries like England, Australia, France, Germany, and Canada. It should be a place where one can get a law upon any subject or a case upon any law very quickly. It is very convenient to have this room near to a good law library. Books are generally behind the times, and newspaper clippings from all over the country and magazine articles, court briefs, and letters must supplement this library and compose to a large extent its material.

2. A trained librarian and indexer is absolutely essential. The material is largely scrappy and hard to classify. We need a person with a liberal education, who is original, not stiff, who can meet an emergency of all cases, and who is tactful as well.

3. The material is arranged so that it is compact and accessible. Do not be afraid to tear up books, documents, pamphlets, clippings, letters, manuscripts, or other material. Minutely index this material. Put it under the subjects. Legislators have no time to read large books. We have no time to hunt up many references in different parts of a library. They should be together as far as possible upon every subject of legislative importance.

4. Complete index of all bills which have not become laws in the past should be kept. This saves the drawing of new bills and makes the experience of the past cumulative.

5. Records of vetoes, special messages, political platforms, political literature, and other handy matter should be carefully noted and arranged. Our legislator often wants to get a bill through and we must remember that he often relies as much upon political or unscientific arguments as we do upon scientific work. He should be able to get hold of his political arguments if he wants to, and the political literature from all parties upon all questions should be kept near at hand.

6. Digests of laws on every subject before the legislature should be made and many copies kept. Leading cases on all these laws and opinions of public men and experts upon the working of these laws or upon the defects, technical or otherwise, should be carefully indexed and as far as possible published in pamphlet form, with short bibliographies of the subjects most before the people.

7. The department must be entirely nonpolitical and nonpartisan or else it will be worse than useless. If you have the choice between

establishing a political department and no department at all take the latter.

8. The head of the department should be trained in economics, political science, and social science in general, and should have also a good knowledge of constitutional law. He should, above all, have tact and knowledge of human nature.

9. There should be a trained draftsman connected with the department—a man who is a good lawyer and something more than a lawyer, a man who has studied legislative forms, who can draw a bill, revise a statute, and amend a bill when called upon to do so. Such a man working right with this department and the critical data which it contains will be absolutely essential.

10. *Methods.*—(a) Go right to the legislator, make yourself acquainted with him, study him, find anything he wants for him, never mind how trivial, accommodate him in every way. Advertise your department. Let everyone know where it is and what it does. Go to the committees and tell them what you can do for them. (b) It is absolutely essential that you get information ahead of time or else you will be of no use in the rush. Send a circular letter out to your legislators and tell them you will get any material which will help them in their work before the session is over. The following is a sample of such a circular sent out by this department:

MADISON, WIS., November 20, 1904.

DEAR SIR: The Wisconsin Legislature of 1901 authorized the Wisconsin Free Library Commission to conduct a legislative reference room, and to gather and index for the use of members of the legislature and the executive officers of the State such books, reports, bills, documents, and other material from this and other States as would aid them in their official duties.

The Legislative Reference Library was entirely destroyed by the fire, but much of value to the student of State affairs has been collected. We desire to make such material of the utmost use and wish you to call upon us for any aid we can give in your legislative duties.

If you will inform us of any subjects you wish to investigate, as far as we have the material, time, and means, we will tell you.

1. What States have passed laws on any particular subject.
2. Where bills for similar laws are under discussion.
3. What bills on any subject have been recently introduced in our legislature.

4. Where valuable discussions of any subject may be obtained.

As far as possible, with our limited force and means, we will send you abstracts of useful material and answer any questions pertaining to legislative matters.

It is not our province to convince members of the legislature upon disputed points. We shall simply aid them to get material to study subjects in which they are interested as public officials.

Make your questions definite. Our work is entirely free, non-partisan, and nonpolitical, and entirely confidential.

The replies to such a circular give you an idea of what is coming. Work for all you are worth on those topics, send out thousands of circular letters to experts on these topics, subscribe to clipping bureaus if necessary to secure critical data from the public at large. Gather statistics ahead. Carefully search books for significant and concise

statements; if to the point, copy out or tear them out and index them. Go through the court reports and get the best opinions. (c) Get hold of libraries or individuals or professors in other States with whom you can correspond. Speed in getting things to a committee or an individual is absolutely necessary. Do not fail to use the telegraph. Get material, facts, data, etc., and get it quickly and get it to the point, boil down, and digest. I can say again the legislator does not know much about technical terms; avoid them; make things simple and clear. (d) Employ, if you can, during the session a good statistician. He can be of great service in dealing with financial bills, in estimating accidents from machinery, or in gathering statistical data of any kind. He should be a man who can work rapidly and accurately and work to the point. Throughout all of this work it is absolutely necessary to get all material absolutely upon the points at issue. (e) Make arrangements with all libraries in your city and libraries elsewhere for the loan of books or other material. You should have every sort of an index in your library as well as catalogues of any of the libraries with which you are corresponding. (f) A correspondent clerk and some helper to paste clippings, mount letters, etc., are necessary, especially during the legislative session. (g) Keep your place open from early in the morning till late at night. Do everything in your power to accommodate those for whom you work.

In Wisconsin the work is divided into three main divisions: (1) The "comparative," which included the gathering of laws and cases from all over the world upon the legislative subjects; (2) the "critical," which is especially charged with the duty of gathering critical data upon the working of laws; and (3) the "constructive," for the purpose of assisting in the work of drafting legislation with evidence already mentioned at hand for reference.—(Wisconsin Free Library Commission, circular of information No. 6 (2d ed), p. 10).

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#### EXHIBIT 4.—COMPARISON OF NEW YORK AND WISCONSIN PLANS FOR LEGISLATIVE REFERENCE WORK

[Extract from address by Mr. Johnson Brigham, State librarian of Iowa, before the National Association of State Libraries, May, 1907. In *A. L. A. Bulletin*, vol. 1, no. 4, p. 200.]

New York and Wisconsin are the acknowledged pioneers and leaders in legislative reference work. While each has the same general end in view, namely, assistance to legislators and legislative committees and improvement in the quality and form of legislation, there is an interesting line of cleavage between the one and the other which we of the other States should carefully consider.

The legislative reference section of New York's State library brings to legislators and legislative committees all available information bearing upon proposed legislation, but does not undertake to act for the legislator or the legislative committee either in passing upon the relative value of the information given or in the drafting of bills for legislative action.

The legislative reference department of Wisconsin's library commission does not stop here. It not only collects, collates, and supplies all needed information, but it also passes upon the relative value of the same. It also supplies legislators and legislative committees with briefs and arguments and, on request, drafts bills. The legislator has only to press the button; the reference librarian and his assistants do the rest.

In New York every incoming legislature, through its two presiding officers, appoints a joint commission of three lawyers, presumably experienced in law and legislation, who supervise and, when requested, prepare bills for legislators and committees, this commission availing itself of all information at the command of the legislative reference section of the State library.

In Wisconsin the legislative reference department serves as gatherer and dispenser of information and as an expert commission in drawing bills, supplying briefs, etc. Dr. McCarthy's assistant, Miss Ono M. Imhoff, writes me that at the time of drafting bills the department uses as many as 30 assistants, many of whom, however, afford only stenographic help.

In the opinion of Dr. R. H. Whitten, executive head of the Albany section, the activities of his section should be confined within the range of "library work," interpreting the phrase with the utmost liberality; but, in his judgment, it should not, even indirectly, undertake any function of the legislator, such as the final passing upon the weight of authorities, upon the relative value of testimony, upon the wisdom or unwisdom of legislation in other States or countries; nor should it assume the responsibility of drafting bills which, if they become law, will be subject to future interpretation by the courts.

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#### EXHIBIT 5.—COMPILATION OF LAWS ESTABLISHING LEGISLATIVE REFERENCE BUREAUS IN VARIOUS STATES

##### ALABAMA

(General acts 1907, No. 255, p. 318.)

AN ACT To enlarge the duties of the department of archives and history.

*Be it enacted by the Legislature of Alabama,* That in addition to the duties now required by law, the department of archives and history shall do and perform the following:

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2. It shall bring together and arrange for ready consultation a reference collection of materials for the use of the members of the legislature, State officers, and others on all subjects which may, from time to time, be deemed of public interest and importance to the people of the State.

Approved, March 5, 1907.



INDIANA

(Acts 1907, ch. 147, pp. 236-237.)

AN ACT To create a legislative reference department in the State library, and prescribe [prescribing] its duties, providing for a legislative reference librarian and assistants in such departments, and making an appropriation to carry out the provisions of this act, and declaring an emergency.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That there is hereby created a legislative reference department in the State library. It shall be the duty of such department to collect for members of the general assembly information in regard to subjects of legislation, and to organize and arrange such material so that it may be most readily used. It shall obtain and furnish to members of the general assembly, or other officers of the State government, any data available regarding the laws of this and other States, and the working and results of such laws in actual practice, together with references to judicial decisions and interpretation upon such laws. It shall collect and make available such current information upon legislative subjects as will make all data upon subjects of present value. It shall be prepared to furnish to members of the general assembly, and under their instructions, such assistance as may be demanded in the preparation and formulation of legislative bills.

SEC. 2. The State librarian, by and with the advice and approval of the State library board, shall appoint a legislative reference librarian, at a salary of fifteen hundred dollars per year, and such other assistants as may be necessary to effectively carry on the work of such department.

SEC. 3. There is hereby appropriated for the payment of the salaries of such legislative reference librarian and other assistants, and of the expenses and cost of supplies and publications necessary to effectually carry out the provisions of this act, the sum of fifteen hundred dollars, to be available on April 1, 1907, and the sum of four thousand dollars annually thereafter.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Approved, March 9, 1907.

MICHIGAN

(Public Acts, 1907, No. 306, pp. 405-406.)

AN ACT To provide for a legislative reference and information department in connection with the State library, to make an appropriation therefor, and to provide a tax to meet the same.

*The people of the State of Michigan enact:*

SECTION 1. There is hereby created and shall be hereafter maintained in connection with the State library, a department to be known as the legislative reference and information department for the use and information especially of members of the senate and house of representatives, the several State departments, and such other persons as may desire to consult the same. It shall be located in the State capitol as conveniently as possible for members of the senate and house of representatives.



SEC. 2. The State librarian, within ten days after this act shall take effect, shall appoint an assistant, who shall be a person trained in political economy and otherwise fitted to perform the duties of this office as herein defined, who shall have charge of said department under the supervision of the State librarian and perform the duties hereinafter prescribed. He shall receive an annual salary of fifteen hundred dollars, payable in the same manner as the salaries of other assistants in the State library. The State librarian shall also appoint some suitable person, trained in political economy and of known capability in indexing and cataloging, as clerk, who shall receive an annual salary of ten hundred dollars, payable in the same manner as the salaries of other assistants in the State library are paid.

SEC. 3. The said assistant shall, as soon as possible, make available for ready reference and use, suitable indexes to all such information as is contained in the various public documents of this State and other States, including senate and house documents and legislative journals, and shall keep a complete file of all bills printed by order of either house of the legislature. He shall procure and compile in suitable and convenient form, for ready reference and access, information as to proposed and pending legislation in other States, and shall also investigate the operation and effect of new legislation in other States and countries to the end that either house of the legislature or any committee or member thereof or any citizen of the State may have the fullest information thereon. He shall also give such advice and assistance to the member [members] of the legislature as they may require in the preparation of bills and resolutions, and shall draft bills upon such subjects as they may desire.

SEC. 4. At the close of each session of the legislature the secretary of the senate and the clerk of the house shall, at his request, deliver to the said assistant, to be appropriately filed and preserved, such copies of bills and joint resolutions which shall not have been passed and are still remaining in their hands, also all important petitions and memorials and other legislative documents.

SEC. 5. The board of State auditors shall furnish, on the requisition of the State librarian, all such cases as are necessary for the cataloging, indexing, and filing of the materials and information collected by said department, and all other supplies of said department shall be drawn by the State librarian in the manner provided by law. Such printing and binding as may be necessary for said department shall be done as part of the printing and binding for the State.

SEC. 6. The auditor general shall add to and incorporate into the State tax the sum of two thousand five hundred dollars annually, and such amount is hereby appropriated from the general funds of the State, which said sum shall be included in the State taxes apportioned by the auditor general on all taxable property of the State, to be levied, assessed, and collected, as other State taxes, and when so assessed and collected, to be paid into the general fund to reimburse said fund for the appropriation made by this act.

This act is ordered to take immediate effect.

Approved, June 28, 1907.

## NORTH DAKOTA

(Laws 1907, ch. 243, p. 382.)

*State library commission created.*

AN ACT Creating a State library commission, defining its duties, and providing an appropriation for its maintenance.

SEC. 5. \* \* \* The State library commission shall have power and it shall be its duty to establish a legislative reference bureau for the information and assistance of the members of the legislative assembly in the work of legislation. The legislation of other States and information upon legal and economic questions shall be classified and catalogued in such a way as to render the same easy of access to members, thereby enabling them better to prepare for their work. It shall be the duty of the librarian of the State library commission to assist in every way possible the members of the legislative assembly in obtaining information and the preparation of bills.

\* \* \* \* \*

Approved, March 2, 1907.

## OHIO

(Laws 1910, No. 384, pp. 221-222.)

AN ACT To provide for a legislative reference and information department in connection with the Ohio State library.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. There is hereby created and shall be hereafter maintained in connection with the State library a department to be known as the legislative reference and information department, for the use and information especially of the members of the general assembly, the officer of the several State departments, and such other persons as may desire to consult the same. It shall have an office room in or near the State capitol, as conveniently located as possible for the members of the general assembly.

SEC. 2. The board of library commissioners shall appoint an assistant who shall be known as legislative reference librarian. He shall be a person well fitted by training and experience to fill the requirements of this office, shall have charge of said department under the supervision of the State librarian, and shall perform the duties hereinafter prescribed. The board is authorized to appoint such other assistants as the work of the department may require.

SEC. 3. The legislative reference librarian shall, as soon as possible, make available for ready reference and use suitable indexes to all such information as is contained in the various public documents of the State, including senate and house journals and executive and legislative documents, and shall keep a complete file of all bills printed by order of either house of the general assembly. He shall procure and compile in suitable and convenient form, for ready reference and access, information on current and pending legislation in other States and countries, to the end that the general assembly, or any member thereof, or any

citizen of the State may have the benefit of such service. He shall also furnish to members of the general assembly, under their direction, such assistance as they may require in the preparation and formulation of bills, and perform such other duties as the board of library commissioners and the general assembly may prescribe.

SEC. 4. At the close of each session of the general assembly the clerk of the senate and the clerk of the house, at the request of the legislative reference librarian, shall deliver to him, to be appropriately filed and preserved, copies of bills, joint resolutions, important petitions, memorials, and other legislative documents for the custody of which other provision is not made by law.

SEC. 5. The board of library commissioners may expend in the establishment and equipment of the legislative reference department a sum not to exceed one thousand dollars and for its maintenance such sum as the general assembly shall from time to time determine.

Approved, May 13th, 1910.

PENNSYLVANIA

(Laws 1909, No. 143, pp. 208-210.)

AN ACT To create a legislative reference bureau in the Pennsylvania State Library; authorizing the appointment of a reference director and subordinate officers, defining their duties, and fixing their compensation.

SECTION 1. *Be it enacted, etc.,* That from and after the first day of June, Anno Domini one thousand nine hundred and nine, the trustees of the Pennsylvania State Library be, and they are hereby, authorized and directed to maintain a legislative reference bureau in the State library, for the use and information of the members of the general assembly, the heads of the several departments of the State government, and such other citizens of the Commonwealth as may desire to consult the same.

SEC. 2. The director of the said legislative reference bureau of the Pennsylvania State Library shall be appointed by the governor, by and with the advice and consent of the Senate, to hold office during good behavior, and he shall be well qualified by experience, knowledge, and ability to conduct the work of the bureau, and shall receive a salary of three thousand five hundred dollars per annum, and his travelling expenses, actually and necessarily incurred in the performance of his official duties. He shall give bond in the sum of ten thousand dollars, to be approved by the governor, for the faithful performance of his duties, and he shall devote his whole time and attention to the duties of his office. He shall have custody of the law library and the publications therein of the various State governments and the United States Government, which may be generally classed as legislative documents.

SEC. 3. The director, by and with the approval of the governor, shall appoint one assistant director, learned in the law, who shall receive a salary of two thousand four hundred dollars per annum, and a reference division stenographer, at a salary of twelve hundred dollars per annum. The State librarian may also assign any employee or employees of the

library for work in the reference division during the session of the general assembly.

SEC. 4. The trustees of the State library shall provide the bureau with suitable rooms in the State Library Building, situated so as to give the bureau ready access to the volumes, catalogues, documents, and other papers in the State library, and in a place where the bureau will be convenient to the members of the general assembly, and others having official business with the said bureau. The reference bureau shall be kept open from nine ante meridian to four post meridian during the entire year, and when the general assembly is in session, at such hours, day and night, as are most convenient to its members.

SEC. 5. The director shall prepare and have available for use, check lists and catalogues of all Pennsylvania laws and all the current legislation of Pennsylvania and other States; lists of bills and resolutions presented in either branch of the general assembly; check lists of the public documents of the State, including all reports issued by the said departments, boards, and commissions; digests of such public laws of this and other States as may be thus best made available for legislative use; catalogued files of newspaper clippings and of such other printed matter as may be proper for the purposes of the bureau. The director shall also, when requested by the governor, heads of departments, or members of the general assembly, promptly procure available information not on file in the bureau relating to pending legislation, and investigate the manner in which laws have operated in other States. He shall also, if possible, establish card catalogue exchanges with other States where laws similar to this are now in force or hereafter may be passed.

SEC. 6. The director and his assistants shall neither oppose nor urge legislation, but shall, upon request, aid and assist the members of the general assembly, the governor, and the heads of departments by advising as to bills and resolutions and drafting the same into proper form, and by furnishing to them the fullest information upon all matters in the scope of the bureau relating to their public duties. No employees of the bureau shall reveal to any person outside of the bureau the contents or nature of any matter not yet published, except with the consent of the person bringing such matters before the bureau.

SEC. 7. The printing and binding necessary for the proper performance of the duties of said division, or the proper preservation of material collected under the same, shall be done by the State printer, upon the order of the superintendent of public printing and binding, upon requisition of the legislative director, countersigned by the State librarian; and the board of public grounds and buildings shall, upon the requisition of the said director, countersigned by the State librarian, furnish the bureau with such books, stationery, supplies, furniture, et cetera, as may be needed to properly conduct the affairs of the bureau.

Approved the 27th day of April, A. D. 1909.

## RHODE ISLAND

(General Laws, revision of 1909, ch. 38. Public Laws 1471, Apr. 23, 1907. Public Laws 1554, Apr. 30, 1908, pp. 193-194.)

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SEC. 17. There shall be in the State library, under the direction of the State librarian, a legislative reference bureau, which shall collect, arrange, and place on file books, pamphlets, and other material relating to legislation, which shall prepare abstracts of laws in other States, and which shall present such other information as may be useful and necessary to the general assembly in the performance of its legislative duties.

SEC. 18. The State librarian shall, with approval of the secretary of state, employ such assistants and incur such expenses as may be necessary in the proper administration of the bureau, and the sum of twenty-three hundred dollars, or so much thereof as may be necessary, is hereby annually appropriated to defray the expenses of said bureau, and the state auditor is hereby authorized to draw his order or orders on the general treasurer upon receipt by him of vouchers approved by the secretary of state.

## SOUTH DAKOTA

(Session Laws 1907, ch. 185, pp. 395-396.)

AN ACT Entitled an act establishing a division of legislative reference in the State library.

*Be it enacted by the Legislature of the State of South Dakota:*

SECTION 1. DUTY OF LIBRARIAN: The State librarian is hereby directed to establish in the State library a division of legislative reference, in which he shall provide the reports of the various officers and boards of this State, and as far as may be of other States, and such other material upon economic and sociological subjects as he may be able to provide, and shall index and classify the same and make the information therein available for the use of the State legislature, and shall, as required, provide for the use of members of the legislature such information and assist in drafting bills, and in every reasonable way make the division useful in the preparation of legislation.

SEC. 2. The various departments, officers, and boards shall provide copies of their reports and publications for the legislative division of the State library, and the secretary of state is directed to supply to the same a complete set of the statutes and session laws of the State and of the reports of the supreme court.

SEC. 3. REPEAL: All acts or parts of acts in conflict with this act are hereby repealed.

Approved, February 18, 1907.



## TEXAS

(General Laws 1909, ch. 70, p. 126.)

AN ACT To create the Texas Library and Historical Commission, setting forth the purposes of the said Library and Historical Commission, defining its powers and duties, etc.

\* \* \* \* \*

SEC. 11. That the said Library and Historical Commission is hereby authorized and directed to maintain for the use and information of the members of the legislature, the heads of the several State departments, and such other citizens as may desire to consult the same a section of the State library for legislative reference and information. The Library and Historical Commission shall appoint an assistant librarian competent to conduct the work of said legislative reference section. Said assistant librarian shall have available for use explanatory check lists and catalogues of the current legislation of this and other States, catalogues of the bills and resolutions presented in either branch of the legislature, check lists of the public documents of the several States, including all reports issued by the various departments, boards, and commissions of this State, digests of such public laws of this and other States as may best be made available for legislative use. Said assistant librarian shall give the members of the legislature such aid and assistance in the drafting of bills and resolutions as may be asked.

## WISCONSIN

(Laws 1903, ch. 238, p. 384.)

AN ACT To amend chapter 168 of the laws of 1901 relating to the cataloguing and distribution of public documents and the maintenance of a legislative reference room and small working library by the Wisconsin Free Library Commission, and increasing the appropriation therefor.

SEC. 373f. TO MAINTAIN LIBRARY IN CAPITOL: The said commission is also authorized and directed to maintain in the State capitol, for the use and information of the legislature, the several State departments, and such other citizens as may desire to consult the same, a legislative reference room, and a small working library, as complete as may be, of the several public documents of this and other States, and to purchase for said library standard works of use and reference. The said commission is also hereby authorized and directed to cooperate, during sessions of the legislature, with the secretary and superintendent of the State Historical Society of Wisconsin, as trustee of the State, with a view to a joint arrangement by which the needs of the legislature in the matter of general books of reference may be met to the fullest possible extent; and said commission shall give such space within its rooms to books brought to the capitol by said society for such purpose as may be jointly agreed upon between them. The librarian of the State library and the officers of State departments are hereby authorized to give or loan to the free library commission for the use of the legislative reference room such books and documents as will be useful in that room. The said free library commission is also authorized to give or loan to the State historical society or to the State departments any books and documents except those in current use in the legislative reference room.

\* \* \* \* \*

Approved, May 13, 1903.

(Laws 1907, ch. 508, pp. 70-71.)

SEC. 373*i*. LEGISLATIVE REFERENCE ROOM—APPROPRIATION: 1. For the purpose of carrying out the provisions of this act, there shall be and is hereby annually appropriated to the Wisconsin Free Library Commission from any money in the general fund not otherwise appropriated the sum of \* \* \* fifteen thousand dollars, and any balance not expended in any one year may be added to the expenditure for the next ensuing year.

DRAUGHTSMEN: 2. Out of the above appropriation the sum of six thousand dollars shall be set aside for the period of each legislative session and the period of two months just preceding each legislative session for the purpose of employing draughtsmen and extra help in the draughting of bills.

INDEXING: 3. The remainder of the appropriation shall be used for the carrying out of the provisions of this act and for indexing session laws, indexing the statutes, indexing of private and special laws, indexing bills, and also for indexing documents and journals from the beginning of the history of the State.

In California, Connecticut, Iowa, Kansas, Massachusetts, New York, and Virginia the State library carries on legislative reference work without specific legislation on the subject.

## IOWA

A joint resolution, approved April 15, 1909, fixing the number and compensation of employees of State departments, provides for the State librarian's office the following:

1 legislative and general reference assistant (who shall be under the direction of assistant to librarian)..... \$1,000

## KANSAS

(Auditor's Seventeenth Biennial Report, 1910, pp. xvi and 147.)

The legislature of 1909 made appropriations as follows:

*Legislative reference library*

	1910	1911
One expert cataloguer who shall work under the State librarian, especially in the legislative reference department.....	\$1,000	\$1,000
Stenographer and clerk.....	900	900
Postage and office incidentals.....	200	200
Total.....	2,100	2,100

The estimate of the appropriations required for the fiscal years 1912 and 1913 is as follows:

	1912	1913
Cataloguer.....	\$1,000	\$1,000
Stenographer and clerk.....	900	900
Postage, office incidentals, and traveling expenses.....	1,000	1,000
Extra clerk hire.....	600	600
Multigraph and typewriting machines.....	400	100
Purchase of legislative material.....	1,000	1,000
Total for legislative reference library.....	4,900	4,600

## MASSACHUSETTS

(Acts 1910, Chap. 75.)

Since 1892 the following provision is found in the annual appropriation acts:

For preparing an index to current events and such other matters contained in the newspapers of the day as may be deemed important by the trustees and librarian, a sum not exceeding one thousand dollars.

In the appropriation act 1910 the contingent fund of \$6,000 is made available for a "Card index of comparative legislation."

## NEBRASKA

The act of 1907 appropriating \$15,000 for the purposes of the State Historical Society, specifies among the objects for which the money may be expended: "For labor and supplies in legislative reference department."

## ILLINOIS

[Governor's recommendations, 1911—Gov. Deneen's message, Jan. 4, 1911, Senate Journal, p. 27.]

*A legislative reference bureau*

I would urge upon your attention also the desirability of establishing a legislative reference bureau, whose work would be to collect and systematize information concerning legislation and administration in this and other States and countries. This work should be done with special reference to the administrative methods and legislation of interest to the people of Illinois and the results should be available for use of the State legislature and the executive and other officers of the State.

Such a legislative reference bureau in connection with the State University would have important advantages in the active assistance of the university's resources, both in its laboratory equipment and in its staff of professional experts in law, political science, economists, sociology, engineering, and agriculture. The work of such a bureau

would be to collect material, including statutes, judicial decisions, official reports, and other public documents; to index and catalogue these and other materials so as to make them available for the officers of the State government and the legislature; and to conduct investigations into problems of public administration, such as are often undertaken by special commissions for the use of the legislative committees and others.

During the session of the legislature the services of this bureau should be primarily at its disposal, and such part of its material as might be needed should be transferred to the State capitol, where it would be at the immediate service of the members of the State government.

#### WISCONSIN

[Gov. McGovern's message, Jan. 12, 1911, pp. 29-30.]

#### *Legislative reference department*

The legislative reference department of the Free Library Commission is a Wisconsin idea of great value. It has been copied by over 20 other States and as many cities. Foreign countries and municipalities have also adopted it. Its purpose is to bring to the legislature expert help in gathering the results of experience elsewhere, without which legislators would be more or less helpless because of the complexity of modern problems. It also furnishes the legislature with expert draftsmen, skilled in the art of embodying in satisfactory form ideas which the members of the legislature, untrained as many of them are in this work, may desire to have enacted into law.

At present this department is not supported as liberally as its importance demands. In carrying on its work it has been hampered for want of necessary funds. I believe an additional appropriation of at least \$7,000 a year for this department is necessary in order to place it upon a proper basis and to equip it so as to facilitate the work of the legislature. This will make a total appropriation for this department of but \$22,000. Other States devote much larger sums to this purpose for services much less efficient than those this State has been accustomed to receive. In the end, such additional appropriation, I am satisfied, will prove the means of a much greater saving in money, to say nothing of improvement in the form of the statute law enacted at each legislative session. I commend this matter to your careful consideration.

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#### EXHIBIT 6.—LEGISLATIVE REFERENCE BULLETINS PUBLISHED IN VARIOUS STATES

CALIFORNIA.—*State library*.—Legislative reference bulletins:

No. 1. Hints on drawing legislative bills. 1908.

No. 2. River improvement laws in other States and countries. 1908.

INDIANA.—*State library*.—Legislative reference department bulletins:

- No. 1. Local option by election. 1908.
- No. 2. Index to governors' messages 1816-1851. 1908.
- No. 4. Hints on bill drafting. 1910.

MICHIGAN.—*State library*.—Legislative reference department bulletins:

- No. 1. Constitution of the State of Michigan, 1850; annotated for the use of the constitutional convention. 1907.
- No. 2. First State constitution—1835. Proposed constitution of 1867. Proposed constitution of 1873. 1907.
- No. 3. Local, special, and private legislation, municipal charters, gubernatorial veto, initiative and referendum, as provided for and regulated by the constitutions of the several States. 1907.

Laws of the various States relating to vagrancy. 1910.

NEW YORK.—*State library*.—Bulletins. Legislation:

- Nos. 1-7, 9-11, 13, 15, 18, 21, 24, 28, 32, 36, 38. Comparative summary and index of legislation, 1890-1908.
- Nos. 16, 19, 22, 25, 29, 33, 39. Review of legislation, 1901-1908.
- Nos. 17, 20, 23, 27, 31, 35, 37. Digest of governors messages, 1902-1908.
- No. 8. State finance statistics, 1890 and 1895.
- No. 12. Trend of legislation in the United States, 1900.
- No. 14. Taxation of corporations in New York, Massachusetts, Pennsylvania, and New Jersey, 1901.
- No. 26. Index of New York governors messages, 1777-1901.
- No. 30. Legislative reference lists, 1906.
- No. 34. A summary of the compulsory attendance and child-labor laws of the States and Territories of the United States, 1907.

(Beginning with No. 20, the three or more bulletins of each year are also issued in one volume under title "The Yearbook of legislation.")

Review of legislation, 1907-8.

*Contents:* Labor, by L. W. Hatch. Crimes and offenses, by D. C. Brown. Corrections, by G. McLaughlin. Public charities, by W. B. Buck. The insane, by T. E. McGarr. The feeble-minded and epileptic, by J. C. Carson. The family, by A. M. Eaton. Public health and safety, by C. E. A. Winslow. Food adulteration, by W. D. Bigelow. Agriculture, by J. I. Schulte. Experiment stations and inspection, by W. H. Beal. Horticulture: Diseases and pests, by E. P. Felt. Public control of waters, by R. P. Teele. Land drainage, by J. T. Stewart. Forestry, by P. P. Wells. Fish and fisheries, by M. C. Marsh. Game protection, by T. S. Palmer. Education, by E. C. Elliott. Vocational education, by A. D. Dean. Library legislation, by W. R. Eastman. Public printing and records, by P. Nelson. Publications, by T. L. Cole. Courts and the practice of law, by I. Loeb. Corporations, by R. C. Harrison. Property, by E. Freund. Contracts and obligations, by J. B. Sanborn. Public utilities, by R. H. Whitten. Municipal government, by J. A. Fairlie. State finance, by E. W. Kemmerer. Local finance, by F. R. Clow. Taxation, by E. W. Kemmerer. Insurance, by S. Huebner. Banking, by W. A. Scott. Commerce and industry, by S. Litman. Transportation and communication, by A. A. Young. Roads: 1907, by M. O. Eldridge; 1908, by L. E. Boykin. Motor vehicles, by C. T. Terry. Index.

Each chapter also issued separately.



NORTH DAKOTA.—*Public library commission*.—Legislative reference department bulletins:

No. 1. Permanent State tax commissions, a comparative digest of State legislation. 1910.

No. 2. Good roads; an outline of State road systems. 1910.

RHODE ISLAND.—*State library*.—Legislative reference bulletins:

No. 1. The veto power in the several States. 1907.

No. 2. Automobile laws of the New England States, New York, New Jersey, and Pennsylvania. 1908.

No. 3. Summary of the general banking laws of the commercial States. 1908.

VIRGINIA.—*State library*.—Legislative reference lists:

1910: Bank examiners. City charters. Municipal home rule. Fee system. Juvenile courts. Oyster industry. Primaries. Liquor question. Protection of birds. Taxation. Tuberculosis.

WISCONSIN.—*Free library commission*.—Legislative reference department bulletins:

No. 1. Railway coemployment. 1905.

No. 2. Lobbying. 1906.

No. 3. Corrupt practices at elections. 1906.

No. 4. Exemption of wages. 1906.

No. 5. Municipal electric lighting. 1906.

No. 6. Trust-company reserves. 1906.

No. 7. Taxation of trust companies. 1906.

No. 8. Municipal gas lighting. 1906.

No. 9. Boycotting. 1906.

No. 10. Blacklisting. 1906.

No. 11. Initiative and referendum. 1907.

No. 12. The recall. 1907.

No. 13. Primary elections. 1908.

No. 14. Proportional representation. 1908.

No. 15. Juvenile courts. 1908.

No. 16. Telephones: Interchange of service. [1908.]

No. 17. Mortgage taxation. 1908.

No. 18. Municipal home-rule charters. 1908.

No. 19. Tenement-house legislation, State and local. 1909.

No. 20. Accident insurance for workingmen. 1909.

No. 21. Initiative and referendum: State legislation. 1910.

No. 22. Certified public accounts. 1910.

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#### EXHIBIT 7.—LIBRARY OF CONGRESS

*Select lists of references*.—Political science and economics:

American occupation of the Philippines, 1898-1903. 1905.

Anglo-Saxon interests. 1903; 2d issue, 1906.

Banks and banking. 1904; 1st & 2d banks of the United States. 1908.

British tariff movement (Chamberlain's plan). 1904; 2d issue, 1906.

Budget of foreign countries. 1904.

Cabinets of England and America. 1903.

*Select lists of references*—Political science and economics:

- Child labor. 1906.
- Chinese immigration. 1904.
- Colonization, government of dependencies, protectorates, and related topics. 1900; 2d edition, 1900.
- Constitution of the United States. 1903.
- Consular service. 1905.
- Corrupt practices in elections. 1908.
- Cost of living and prices. 1910.
- Currency and banking. 1908.
- Debates in Federal convention on election of Senators. 1902.
- Deep waterways from the Great Lakes to the Atlantic Ocean. 1908.
- Eight-hour working day and limitation of working hours in general. 1908.
- Employers' liability. 1906.
- Far East. 1904.
- Federal control of commerce and corporations. 1903; 2d issue, 1904.
- Fourteenth and fifteenth amendments, with special reference to negro suffrage. 1906.
- Government ownership of railroads. 1903.
- Immigration. 1904; 2d issue. 1905; 3d issue. 1907.
- Impeachment. 1905.
- Industrial arbitration. 1903.
- Insurance, United States and foreign countries. 1906; 2d ed. 1908.
- International arbitration. 1908.
- Iron and steel in commerce. 1907.
- Labor, particularly relating to strikes. 1903.
- Mercantile marine subsidies. 1900; 2d ed. 1903; 3d ed. 1906.
- Municipal affairs, with special reference to municipal ownership. 1906.
- Negro question. 1903; 2d issue. 1906.
- Old-age and civil-service pensions. 1903.
- Political parties in the United States. 1907.
- Popular election of Senators. 1904.
- Postal savings banks. 1908.
- Primary elections, particularly direct primaries. 1905.
- Proportional representation. 1904.
- Railroads in foreign countries. Governmental regulation. 1905.
- Railroads in their relation to the Government and the public. 1904; 2d issue. 1907.
- Reciprocity. 1902; 2d ed. 1910.
- Reciprocity with Canada. 1907. [2d ed. 1910]
- Recognition in international law and practice. 1904.
- Sugar, chiefly in its economic aspects. 1910.
- Supreme Court of the United States. 1909.
- Tariffs of foreign countries. 1906.
- Taxation of inheritances and of incomes. 1907.
- Trusts. 1900; 2d ed. 1902; 3d ed. 1907.
- Valuation and capitalization of railroads. 1909.
- Workingmen's insurance. 1908.

## INDEXES AND COMPILATIONS OF LAW

## EXHIBIT 8.—PROPOSAL FOR INDEX TO COMPARATIVE LEGISLATION

ESTIMATES FOR 1904

*Estimate.*—For the preparation of an index to comparative legislation, including subscription to and purchase of publications and other necessary material, and for traveling expenses, transportation, stationery, postage, and all services and incidental expenses connected with the compilation of such index, \$28,000.

[Extract from letter of transmittal accompanying estimates Oct. 6, 1902.]

This proposes an entirely new undertaking for the Library. An index to comparative legislation brings together a descriptive statement of the laws that are being enacted by the various legislative bodies of the civilized world. If accompanied by a reference to preceding statutes or by brief abstracts indicating the course of legislation, it may become an instrument of the highest value not merely to the theoretic investigator, but to the practical legislator.

There is at present no such index comprehensive in scope. An index published by the State library at Albany covers the legislation of the several States. An index that would cover promptly, intelligently, and accurately the current legislation of the world would render a great public service—a service to the legislator in Congress, to the executive branch of the Government in its diplomatic relations, to the scientific bureaus of the Government, and to all students of current, political, and economic facts and tendencies. Published periodically—say monthly—it can be made to broaden its service, to the aid of legislators, administrators, and investigators in all parts of this country and in other countries. The work should be done at Washington. It can only be done at the National Library, where the material is to be found or by which (with the aid of the consular and diplomatic representatives of the United States) it can most effectively be secured. It will require not merely the current statutes promptly upon their enactment, but the files showing the legislation of the past. It will require subscriptions to a considerable amount of material which can not be secured by the library as gift. It will require a systematically organized corps of special workers, besides the routine service for recording, classifying, and for correspondence.

If such a work can be organized at the Library of Congress, it will do more than any other expenditure of a similar amount to make useful the great mass of legislative documents which are accumulating within its walls, and which it has an opportunity to accumulate unequaled by any other institution in the world.

I shall be prepared to submit to the Appropriations Committees a more particular description of this proposal, with illustrations.

[Communication from the Librarian of Congress to the Subcommittee on Appropriations, House of Representatives]

THE LIBRARY OF CONGRESS, *December 3, 1902.*

SIR: In response to your suggestion at the hearing, I beg to add to my statement concerning the proposed "Index to Comparative Legislation" the following:

*Scope.*—The index would cover all the statute laws of all the civilized countries having legislative assemblies whose deliberations and activities are of interest to Congress, to our other legislative bodies, to our executive and scientific bureaus, and to the student and investigator. It would cover primarily the most recent enactments. It would from time to time trace back the entire course of legislation in a particular country upon the particular subject, in order to show the bearing and significance of a recent act, if epoch making.

*Form.*—It would consist of a monthly bulletin, with at least an annual summary.

The index would be not merely a list of the acts by title. This would contribute little. It would indicate the subject matter of the act and at times analyze it. It would therefore be a subject index, in a measure a digest.

It should contain also references to articles in journals in the nature of commentaries upon or expositions of particular legislation, and possibly to important judicial decisions interpreting them. It would avail itself of the work of the three societies (in London, Paris, and Berlin) dealing with comparative legislation within particular fields.

It would be "comparative" in that it would bring under one heading—that of the subject itself—the recent legislation of various countries with reference to that subject. The reference would not, as a rule, go beyond the summary. Occasionally, however, it might seem desirable to reprint in English the substantial part of some act of a foreign government bearing upon a subject under discussion in Congress.

The occasional résumé would enable the investigator to trace back the course of legislation on that subject.

*Cost.*—The estimate submitted is \$28,000. This is for but the first year. The index will be of no importance unless continued and maintained currently. During the first year little can probably be done except to effect the organization, to gather and systematize material, open communication with the legislative centers, determine methods and processes, and begin the classification and digestion of the material and the card indexes which must precede the published bulletins. The estimate of expense for the first year may be taken as a fair estimate of the annual expense. The outlay for material, equipment, and transportation for the first year will be larger than afterwards, but the expense of editing may be less.

#### ELEMENTS OF EXPENSE

1. *Equipment.*—The cost of this will be slight—desks, tables, filing cabinets, etc.

2. *Material.*—The library has already a mass of statute laws, and much comes to it without cost through international exchange; but

for the purpose of the index and, indeed, for all inquiries into statute law, a complete set of the statutes of every country is essential. In many cases the sets in the library are very imperfect, and the defects can now be made good only by purchase.

For the purpose of the index there must be a subscription to at least two copies of all the publications which give the current legislation and of the journals which deal with it. More copies may be desirable for cutting and pasting.

*Organization.*—So far as I have been able to give consideration to this the minimum requisite would be as follows:

General director in charge of the work, who must have legal training, a good general education, a fair knowledge of the most important foreign languages, and initiative, method, and executive ability. Salary.....	\$3,000
4 scientific experts, each with a general education and professional training similar to that of the chief of the division, and competent to analyze, digest, compile, and edit laws of various countries having different constitutions, but not called upon for the larger administrative functions: One to cover Great Britain and her colonies; two for Continental Europe, Africa, and the Orient, and one for South and Central America, at \$2,000 (probably \$2,250) each.....	8,000
4 translators (there would be nearly 20 languages involved, including some of the most difficult, as Russian), at \$1,200 each.....	4,800
1 cataloguer.....	1,200
1 proof reader.....	1,200
2 stenographers and typewriters, at \$900 each.....	1,800
Subordinate service—for classifying, copying, writing index cards, and messenger work, etc., say.....	4,000

In addition to the above, there would be the compensation of certain correspondents who, in important legislative centers, would make periodical reports upon legislation pending, give information as to publications and aid in procuring them. Such correspondents must be experts in the statute laws of their countries and competent also, if required, to aid in tracing back the history and motive of legislation upon a particular subject and the bearing of any particular act. Such experts could, I think, be secured at a small compensation in each case. It is essential that they be paid something, otherwise they could not be held accountable for promptness, accuracy, and thoroughness.

The service connected with the work may therefore mean an annual expenditure of over \$24,000.<sup>1</sup> This leaves a very narrow margin for the acquisition of material, for freight, transportation, and miscellaneous expenses, as indicated. During the first year particularly, while material is being sought, communications opened, and corre-

<sup>1</sup> By the \$16,000 which I mentioned at the hearing I had in mind only the special expert service comprised in the first three items above.



spondents secured, there would have to be a considerable expenditure for transportation.

The expert service required for dealing with foreign legislation is of a very different grade from that which suffices for an intelligible treatment of American statute law. Not merely do the languages present difficulties—an intelligent presentation of a statute of a foreign country requires knowledge of the constitution of that country, of its history, of its methods of legislative procedure, and of its executive and judicial organization.

*Usefulness of the work.*—I have adverted to this in the letter accompanying my estimates, I may add the following suggestions:

The subjects treated in the index would include subjects that bear upon the work of every legislative assembly in the United States, a considerable number of subjects of interest to municipalities, a larger number of interest to State legislatures, and a most important group of subjects of constant interest to Congress. Among these latter I may note the following:

Taxation in all branches; revenue, customs and internal, tariffs; subsidies and bounties, finance, currency, banking, etc.; weights and measures, commercial regulations; navigation; railroads; telegraphs; postal systems, public franchises generally; corporations (regulation of); public health, e. g., pure food laws, meat inspection, quarantine laws; immigration and emigration, naturalization, extradition; labor legislation, e. g., arbitration, coal mines, factory inspection; elective franchise, regulation of religious orders; tenures; irrigation; forestry; protection of magistrates.

The above are only examples. They will extend, as Congress may have to deal further with domestic and international questions, particularly as it will have to deal with the Territories, for which it legislates directly, and the newly acquired dependencies, where the problems to be solved are problems with which foreign countries have had in some form to deal.

In the experience of the Library, inquiries from Congress touching foreign legislation take the following, among other, forms (the examples are actual):

(1) A request for a particular statute, e. g., the Belgium arbitration act; (2) a request for all the statutes of a country relating to a particular subject, e. g., old age pensions in Great Britain; (3) a request for the legislation of foreign countries upon a given subject, e. g., regulations of trade in foreign countries; (4) a request for any laws attempting to legislate for a particular class of interests in a particular way, e. g., foreign statutes encouraging by bounties the merchant marine or sugar production.

A response to such inquiries, except possibly the first, can at present be neither prompt, certain, brief, nor conclusive. Even if the statutes are here, they must be traced down from a mass, and the time of the inquirer and of the Library unnecessarily consumed both in the search and in the examination of laws which, though having a bearing upon the general subject, would by index or digest be shown to have no

bearing upon the particular points in which the inquirer is interested. With the index well under way, the material perfected and systematized, and an organization whose particular function would be to answer just such inquiries, the response might have all four of these requisites—promptness, certainty, brevity, and conclusiveness.

In addition to inquiries from Congress are inquiries from executive departments and scientific bureaus of the Government, and from various commissions established from time to time to investigate and report to Congress. The work of the departments and scientific bureaus quite often calls for an investigation of foreign legislation on a given subject. (I may instance a present investigation by the Agricultural Department as to foreign laws regulating the inspection of meats.) The commissions created by Congress to investigate and report almost invariably include in their report a summary of foreign legislation. In the absence of any digest of foreign statute laws these investigations have to be special and can not but be costly and, to a great extent, repetitious. With the index thoroughly established, both special investigation and repetition would be avoided.

Beyond the uses of Congress, of other legislative bodies, and of the scientific bureaus or executive commissions, there would be the use of the student and investigator. The service to these is so obvious as to need no explanation. There is no class of material in the Library as to which individual effort on the part of the inquirer is so extravagant or apt to be so futile as it is in the case of the material of documents and legislation generally. There is none which is so inert unless galvanized by some system of digest and exposition.

The undertaking would be one apart from the routine of the present administration of the Library, but it is one which I have felt called upon to recommend, because it seems to have a logical claim upon the National Library from its preeminent resources, its relation of service to other institutions, and its peculiar duty, not merely as a general library, but as the chief legislative library of this country.

I do not recommend it, however, unless the appropriation can be sufficient to insure that the work shall be comprehensive, thorough, scientific, and the results authoritative. I may have underestimated the cost. I am sure that I have not overestimated it.

Very respectfully

HERBERT PUTNAM  
*Librarian of Congress*

HON. HENRY H. BINGHAM  
*Chairman Subcommittee on Appropriations  
House of Representatives*

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EXHIBIT 9.—STATUTORY LAW SERVICE

About five years ago the Librarian of Congress proposed to Congress the establishment of a permanent bureau which should prepare an "index to comparative legislation," and in particular he emphasized the indexing of foreign legislation. The proposal called for an annual expenditure of at least \$28,000. It has been recommended each year

since 1902 to the Appropriations Committee, but no action has been taken by the committee.

For the fiscal year 1906-7 Congress appropriated \$5,840 to establish in the law library a law service which should prepare a scientific index to all the statutes and treaties of the United States. For the fiscal year 1907-8 this sum of \$5,840 was continued, together with \$5,000 additional carried in the general deficiency bill, for the purpose of hastening the preparation of that portion of the index which would refer to the statutes found in the Revised Statutes of 1873 and the sessional statutes subsequently enacted.

Gradually there has been gathered for this study of the statutes a small group of young lawyers. The task involves a most exacting study of our existing statute law, and to insure successful results calls for the finest quality of legal mind. Several lawyers, highly recommended, have tried the work and failed, either because they lacked alertness of mind, ability to differentiate between the fundamental and incidental analogies of the principles involved in the statutes, retentive memory for the numerous categories and the concepts given to each of them, or the capacity to use precise and concise legal diction.

To prepare expeditiously a guide, in detail, to the innumerable subjects found in the 40,000 pages of statutes and treaties it was necessary that the work should be taken up cooperatively. To insure uniformity and harmony in a large index prepared by several persons, it was necessary that they should employ identical methods from day to day throughout the entire work. Of the processes involved in indexing, classification is probably the one most susceptible to indefinite variation. To eliminate such a danger and provide a means for keeping together, it was necessary to prepare at the outset a tentative plan of subject headings, subheadings, and cross references. As initial work, this classification plan was difficult to prepare, and it is constantly being modified in connection with the close study now being given the statutes. The classification plan will therefore only be completed when the whole index is completed. If it should meet substantial approval and have the effect, which is expected, of greatly economizing the time of all inquirers seeking Federal statute law, a strong reason would exist for subjecting the State statutes to the same scientific treatment.

The practical importance of a detailed, comparative index to the constitutions and statutes of the States of the United States needs no argument. Were the separate indexes to the sessional statutes, revisions, and codes of all the States constructed in accordance with an approximately uniform system of classification, a comparative index to the legislation of this country would exist which would be of practical use to the profession, to legislators, to scholars, and to those who undertake from time to time to prepare consolidations of the sessional statutes in the shape of revisions and codes. With a standard plan of classification once scientifically prepared and the constitutions, statutes, and codes regularly indexed by lawyers of aptitude and training for the task, a handy comparative index to any subject of constitutional or statute law could be readily compiled.

Each of the lawyers engaged in the present undertaking has taken a group of the subjects treated of in the Federal statutes and has proceeded to read systematically the entire body of acts, joint resolutions, etc., and to study and index such of them as deal with his particular subjects. To index accurately and with fullness the detail of any subject, complete knowledge of it in its various phases and also of its various relations to cognate subjects is required. Of course a mastery of any considerable number of the numerous subjects in the statutes, as they are administered by the executives and interpreted by the courts, is impossible without long study.

Right here it should be noted that the parliamentary draftsmen who are employed by the legislative bodies of England, France, Germany, and other countries to index, consolidate, and draft statutes make no pretension to omniscience of the subject matter of the law. They aim to have a comprehensive knowledge of the law in its various relations, particularly of the statute law (including its relation to executive rules and regulations), and of the problems respecting its form and phraseology. They claim, also, to know enough to consult the lawyers and others who are specialists in subject matter. For the employment of such specialists by the parliamentary draftsmen of England, \$7,500 is annually appropriated to be used or not as occasion requires.

It is frequently said that indexing of statutes calls for a "peculiar" sort of mind. And so it does, but not in the sense in which the word is understood by those who make the remark. Throughout this country there has been no systematic study of the statutes by able lawyers who were devoting themselves to it as a life work. From time to time individuals have been called in from other pursuits in the law, or from other business, to engage temporarily in the preparation of a compilation, revision, code, or index of the statutes. Indexes are generally prepared by men of very ordinary ability who have little or no legal training. Their slow mental processes and lack of method usually prevent them from using the stenographic and other clerical assistants which relieve such work of the humdrum drudgery with which it is generally regarded. Where a study of the statutes is undertaken by lawyers of real legal ability, well trained in history and political science, who command the use of precise diction and are alive to the method and form involved in philosophical law work, who have an aptitude for constructive law work of a comprehensive character and an alert, practical judgment in the analysis and synthesis of statutory materials, the study of the statutes for the purpose of bringing to light the numerous correlations becomes a delightful task. Such work demands a division of labor. The lawyer must confine his attention to the legal problems involved and be able to relegate to different clerks the doing of the different processes which he devises as incidental to his purpose. The lawyer who is unable to do this is absolutely unfit to index statutes or assume any other responsible work connected with a statutory law service.

In the proposals and discussions hitherto in regard to indexing legislation and, indeed, in the work which has been undertaken, the qualities of mind and training of those who are required to perform the work



have not been appreciated. An index is a guide. Guides are made to economize time and give certainty. A good index is one which leads an inquirer directly to what he wants and puts him in touch with all that he seeks. The insight and comprehensive knowledge which a lawyer must have who presumes to foresee what other lawyers may want in the body of statutes have apparently escaped the attention of those who have given the subject of indexing the statutes consideration. Such indexes must meet the practical needs of the lawyer because sooner or later all exact and serious use of the statutes falls to men trained in law.

The tremendous increase throughout the world, and particularly in the United States, in legislative-made law is a matter of current comment. Reliable indexes to this vast material should be made. Economy demands it. The aggregate cost of time now expended in separate searches, because of the lack of such indexes, is immeasurable. But this cost is a bagatelle compared with that which proceeds from the unspeakable condition of the statutes themselves. For under this head must be reckoned not only the cost of useless litigation and unnecessary injustices, but the demoralizing effect upon society which lawless statutes produce in the way of lawlessness. Therefore the cost of a statutory-law service is trifling in comparison with the economies which may be effected if lawyers of the right quality are permanently employed to study the statutes and index them and the fruits of their experience and skill are made use of by the legislators.

The practical relation of scientific indexes to better legislation has not been understood in this country. It should be carefully considered. By bringing to light all the law which has a bearing on the subjects of proposed legislation, such indexes would undoubtedly enable our legislators (particularly if they avail themselves of the assistance of the statutory specialists who made the indexes) to prepare statutes which are not only more harmonious and consistent in principle, precise in phraseology, and clear and intelligible in form, but which are better in subject matter, fewer in number, and shorter in length. If one would get an idea of the pathology, or nosology of our statutory drafting, he should read the books on statutory construction. They illustrate copiously the bad drafting which comes from not employing lawyers who are habituated to the exact, painstaking work of indexing, drafting, and consolidating the statutes.

On the Continent of Europe, where they have been preparing codes and revisions for 2,000 years, and in England, a detailed subject index of the statutes has generally been considered a prerequisite process of the scientific method which should be employed in the preparation of an accurate and orderly revision, consolidation, or codification of the sessional statutes. The correlations secured by means of a scientific index afford, not only the only safeguard against an inadvertent omission of any items in the sessional statutes, but they are absolutely essential to the most logical and practical classification of the subject matter of the sessional statutes. The study which is given the statutes in the preparation of an index to them is cursory compared to that which may



be necessary on any particular subject in the preparation of a code or consolidation of it, but the understanding of the historical and comparative relations of the statutes as a whole with their particular parts, which may be gained by an able lawyer in scientifically indexing them, becomes invaluable to him in the preparation of a consolidation or in the drafting of supplementary legislation.

As to the indexing of foreign law, it is possible here to spend a good deal of money and get very little that has practical use. Like the statutory law work already discussed, it requires a legal mind of particular aptitude and judgment. In addition, it requires that the principles, concepts, and conditions of a foreign-law system shall be understood in the terms of the principles, concepts, and conditions of our American law system. The absence of equivalents necessitates careful study and close comparisons. The lawyers who have the capacity and training to index and expound foreign legislation are few. It would therefore be wise to develop this phase of our statutory law work gradually, but the preparation should be begun at once. The initial work is large and some of it is very difficult. Besides collecting the law literature of each country which is most practically useful and determining the classes of subjects which should be indexed comparatively, the preparation of a classification plan must be taken up. This involves many perplexing problems, which probably could be best worked out in connection with the work involved in answering the inquiries which come from Congress for the foreign law on particular subjects. By the use in such special investigations of carefully thought-out methods, it is possible to develop gradually a system of records which may become the basis for the ultimate index.

Congress, like all the American legislatures, is constantly informed that such and such has been the legislative action of some foreign state. At present there is absolutely no way by which our legislatures can systematically verify these assertions.

Individuals are occasionally employed for a short time at high compensation (because temporary service ordinarily costs more relatively than permanent service) to report the foreign law on some very important subject. Frequently these individuals are not thoroughly trained in the technicalities of American law and the foreign laws which they must handle. Their reports therefore lack the exactness which a serious use of the material demands. Such reports, too, are frequently inaccurate for another reason. To search any law subject with thoroughness one should check up his own investigations with all the best treatises, digests, encyclopedias, compilations, and other lawreference books to be had. The occasional investigator of foreign laws not only does not know of the existence of many of these law reference books, but, because such books have not been systematically gathered by any law library, he is frequently unable to obtain those of which he may know in time for his investigation. In every country there are law books published which are inaccurate, incomplete, unindexed, or poorly indexed and arranged, and there are other publications which are copiously annotated, accurate, complete, and fully indexed. The

occasional investigator of foreign law can hardly be expected to have the latest and fullest information about the relative, practical, and scientific value of the law literature of the several countries which are involved in his report on a particular subject.

It is to be assumed that American legislators are anxious to avail themselves of the experience and suggestion contained in foreign statutes wherever a particular legislative device, after careful investigation of the surrounding conditions, seems susceptible of practical adaptation. Very infrequently is it safe to enact, without modification, the statute of another jurisdiction. The foreign statute may contain a suggestion which, to be of practical use, must be wisely adapted. This is a fact often overlooked by the superficial and clamorous reformers. Every consideration of prudence and economy dictates that Congress should have its own permanently employed lawyers for such work, that they should be persons of special aptitude and training for the unique task and thoroughly devoted to the particular law service for which they are retained.

The propriety of authorizing the law library to undertake this law work might be questioned because of the novelty of the proposal. The reasons for it would seem to be that such a statutory-law service, in order to do its work, must be diligently employed throughout the year whether Congress is in session or not; that the Library of Congress is the only branch of Congress which has a permanent and responsible executive organization; that the supervision of such a service and the furnishing it with the stationery and other supplies regularly needed could be done most conveniently through the organization of the Library of Congress; that from the nature of the work it will be necessary constantly to use the law books and periodicals of the law library; that such use must be made without interfering with the use of these materials by readers, borrowers, and others who rely upon the law library collections; that a statutory-law service should have readily at hand the experts in legal bibliography whom the law library must necessarily employ in order to gather its law literature; that in general the duties of procuring the law literature and of making its subject matter available to the needs of Congress are so intimately connected that it would be more economical and efficient to establish a statutory-law service in connection with the law library; further, the fact that the law library has had a place in the Capitol Building for many years, and that a statutory-law service should have a location in the Capital during the sessions of Congress and there enjoy the fullest access to a working law library, makes it desirable that such a service should form a part of the law library organization; finally, it would be generally admitted by the Senators and Representatives that such a service must be kept strictly out of politics if any reliance is to be placed upon its assistance, and that the sole consideration in the selection of the individual assistants must be their technical fitness for statute-law work.

If it should seem that the points urged in respect to the study of statute law by lawyers of aptitude and training have been unduly empha-

sized, let some of the more obvious aspects of the problem be borne in mind.

The great body of statutes are concerned with the administrative duties and powers of the public authorities. The lawyer in general practice has little or no occasion to consider in a general or comprehensive way the administrative system as a whole. American statutes undertake to regulate legal relations in much more minute detail than is done in other countries. It is therefore necessary that American legislators should have a more detailed and exact knowledge of administrative law than the legislators of other countries, and this necessity is again emphasized by the fact that the chief executive authorities of all other popular lawmaking countries are members of the legislatures and are expected to initiate legislation and stand ready in debate to explain the relation of the existing administrative law to their proposed measures.

In other constitutional governments the interpretation which the legislature may give the constitution is final and its enactments are always law. In the United States the judiciary is given a veto on the statutes which do not conform with its constitutional interpretations. It is therefore most important that the legislators in this country know more concerning the decisions of the courts than those in other countries. To retain the confidence of the public and to avoid the humiliation of attempting to enact statutes which it is obvious can have no legal force, our legislatures should have some systematic way of ascertaining the existing law which is incident to any subject of proposed legislation.

The confusions, contradictions, and defects generally in the form and phraseology of the American statutes are subjects of common reproach by the judiciary, the legal profession and the legislators themselves. In view of the condition of the statutes enacted in foreign countries, it can hardly be seriously urged that faults of this character are the inevitable accompaniment of lawmaking by popularly elected lawmakers.

The function of law is to regulate the relationships of society. The more complex those relationships become the more difficult they are to regulate. The increasing complexity of modern society is a matter of current comment, likewise the swiftness with which relations are established and broken among men in our moving civilization. The legislative methods which are satisfactory in a rural and sparsely settled country can hardly be expected to succeed in a densely populated community engaged in innumerable occupations. There is a strong tendency, particularly in the United States, to call upon our legislatures to modify and remedy existing law. To respond to such demands, the legislatures should have their own special assistants, who are familiar with the legislative point of view, to prepare for them clear, exact statements of the existing law and the problems involved in particular subjects of proposed legislation. Ours is the only great country having popular lawmaking bodies which fail to employ specialists in statutory law to assist them. The fact that this device has been developed in foreign countries should be no objection to it if it seems to offer, in some degree, a remedy to the evils which are recognized and deprecated by all. At

least, such a device seems worthy of serious consideration at this time. For it will take some years for any group of lawyers to develop the methods and skill which have been gradually developed abroad by the lawyers who are employed to index and consolidate the statutes and to assist in the drafting of new legislation.

## ATTORNEYS AND ASSISTANTS NEEDED

As a next step toward the establishment of a statutory-law service in the Law Library, it is recommended that the present appropriation of \$10,840 be increased to \$20,440. It would be preferable to have this appropriated as a lump sum for the payment of salaries, as follows:

Foreign-law attorney.....	\$3, 000
Foreign-law attorney (these men must be well trained in Anglo-American law and between them have a thorough grasp of the principles and juristic phraseology of the law of the Teutonic and Latin countries).....	2, 500
Foreign-law stenographer (he must have some training in law and foreign languages).....	1, 200
The total appropriation recommended to begin the foreign statute law service is \$6,700.	
American-law attorney.....	\$3, 000
American-law attorney.....	2, 500
American-law attorney.....	1, 800
American-law attorney.....	1, 500
American-law attorney and proof reader.....	1, 200
Law stenographer.....	900
Law stenographer.....	720
File clerk.....	720
Law librarian and attorney.....	500

The total appropriation recommended to continue the statute-law service, covering statutes in the English language, is \$13,740. The study of the English statutes and British colonial statutes for the purpose of a comparative index to foreign statutes would be conducted by the attorneys who are at present indexing the statutes and treaties of the United States. During the period when Congress is in session they would hold themselves in readiness to prepare reports for the committees of the Senate and House on any subject of existing law. When Congress is adjourned they would continue, for the immediate present, the indexing, which has been begun. They would also prepare complete tables of the repeals and amendments to indicate the relations of the statutes and resolutions in these respects. The index and tables are basic to any exact work in connection with the compiling, consolidating, or drafting of statutes. The experience gained in this initial study of the statutes will be invaluable to the doing of any further work which Congress may authorize.



## BILL DRAFTING

## EXHIBIT 10

[Extract from an address by James Bryce (British ambassador), before the New York State Bar Association, Jan. 24, 1908.]

To secure these merits two things are needed, viz, that a bill as introduced should be skillfully drafted, and that pains should be taken to see that all amendments made are also properly drafted, and that the working is carefully revised at the last stage and before the bill is enacted. Of these objects the former is in England pretty well secured by the modern practice of having all government bills—these being the most important and the large majority of those that pass—prepared by the official draftsman, called the parliamentary counsel to the treasury. If the form is not always satisfactory, that is due not to his fault, but to parliamentary considerations, viz, the need for putting measures into shape which makes it least difficult to run them through Parliament. As respects amendments in committee and final revision, our English procedure is not satisfactory. There ought to be some means of correcting, before a measure finally passes, those inelegancies, redundancies, and ambiguities which the process of amending in committee usually causes. But as Parliament has, so far, refused to allow any authority outside itself to alter the wording in the smallest point of form, all that can be done is to use the last stage of the bill to cure such blemishes as can be discovered. Doubtless the same difficulties arise here. I am not fully informed as to how they are dealt with, but have learned with great interest of the efforts recently made in Wisconsin, under the zealous initiative of Mr. McCarthy, and in this State also, to supply by a bureau of legislation assistance to members of the legislature in the preparation of their bills. The value of this seems to have been already recognized in both States, and I hear that there are now seven States in all where arrangements are made by State authority for such help.—[From *Columbia Law Review*, vol. 8, Mar., 1908, pp. 160-161.]

## EXHIBIT 11

[“The Need of Parliamentary Draftsmen,” by F. J. Stimson. Extract from his “Popular Law Making,” 1910, pp. 361-363.]

The most important statute of the United States is perhaps the most horrible example of slovenliness, bad form, and contradiction of all. The Hepburn Act is the amended interstate-commerce act, and is printed by Congress in a pamphlet incorporating with it quite a different act, known as the Elkins Act, besides the safety-appliance act, the arbitration act, and several others. We all remember under what political stress this legislation was passed, with Congress balking, the Senators going one way, the Attorney-General another, the radical Congressmen in front, and the President pushing them all. It is easily intelligible that such a condition of things should not tend to lucid legislation, particularly when an opposing minority do not desire the



legislation at all, and hope to leave it in such a shape as to be contradictory, or unconstitutional—or both. (This has been intentionally done more than once.) All of it a mass of contradictions or overlaying amendments; the first important part of it which came under the scrutiny of the Supreme Court only escaped being held unconstitutional by being emasculated. Its other clauses have yet to face that dreaded scrutiny. Its basic principle has yet to be declared constitutional, while the only principle which has proved of any value was law already. This wonderful product of compromise starts off by saying "Be it enacted, etc., section 1 as amended June 29, 1906." It begins with an amendment to itself. It does not tell you how much of the prior law was repealed, except upon a careful scrutiny which only paid lawyers were willing to give. Upon the old interstate-commerce act of 1887, after quoting it substantially in full, it adds a mass of other provisions, some of which are in *pari materia*, some not; some contradictory and some mere repetitions. It amends acts by later acts, and, before they have gone into effect, wipes them out by substitutions. It hitches on extraneous matters and it amends past legislation by mere inference. Like a hornet, it stings in the end, where revolutionary changes are introduced by altering or adding a word or two in sections a page long, and it ends with the cheerful but too usual statement that "all laws and parts of laws in conflict with provisions of this act are hereby repealed." As a result no one can honestly say he is sure he understands it, any more than any serious lawyer can be certain that its important provisions are any one of them constitutional. And that huge statute with sections numbered 1, 2, 5, 16, 16a, etc., with amendments added and substituted, amended and unamended, is contained in 27 closely printed pages. I venture to assert boldly that any competent lawyer who is also a good parliamentary draftsman could put those 27 pages of obscurity into 4 pages, at most, of lucidity, with two days' honest work. By how little wisdom the world is governed! And how little the representatives of the people care for the litigation or trouble or expense that their own slovenliness causes the people! For the necessity of political compromise is no excuse for this.

I therefore urged before the National Association of State Libraries, at their annual meeting of 1909, that they should use their influence with the various State governments at least (1) that all revisions be authenticated, authorized, and published by the State; (2) that the annual laws be separated, public from private, and be printed by numbered chapters arranged either chronologically or topically; (3) that the indexes be arranged under the 40 general heads used by the New York State Library in its annual digest, with such additional heads as may, perhaps, prove necessary in some States, such as, for instance, Louisiana, which has subjects and titles of jurisprudence not known to the ordinary common-law States; (4) that the constitutions be printed with the laws; (5) that every State, under a law, employ a permanent, paid parliamentary or legislative draftsman whose duty it shall be to recast, at least in matters of style and arrangement, all acts before they are passed to be engrossed.

Any private member introducing a bill can, of course, avail himself of the draftsman's services before the bill is originally drawn. His advice may be required by the legislature or by legislative committees on the question whether the proposed legislation is necessary; that is to say, whether it is not covered by laws previously existing. It shall be his duty then to edit the laws, arrange them for publication, and to authenticate by his signature the volumes of the annual laws. One person is better than two or three for such work, but he should be paid a very large salary so that he can afford to make it his life work. He should be appointed for a very long term and should have ample clerical assistance. It should also be his duty to correspond and exchange information with similar officials in other States.

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#### EXHIBIT 12

[Extract from recommendation of a committee (headed by Judge Baldwin) "on improving methods of legislation" proposing (for each State and the United States) a "joint standing committee (of the legislative body) for the revision of bills."]

Your committee would recommend the adoption of the following resolutions:

1. *Resolved*, That in the opinion of the American Bar Association a fundamental change is necessary in the methods of enacting laws throughout the United States; that both in Congress and the legislative bodies of the States laws are enacted without responsibility and without any such safeguards and methods as will insure responsibility for laws to be enacted, accuracy in their expression, their harmony with existing law, or to prevent the machinery of legislation from being used by sinister interests against the public weal.

2. *Resolved*, That in the opinion of the American Bar Association such constitutional amendments should be incorporated in the fundamental laws of the various States and of the United States as will create responsibility for public legislation and as will call into being some revisory power over proposed legislation other than the mere veto power of the President and of the governors.

3. *Resolved*, That the following draft act if adopted in the several States would, in the judgment of the association, do much to remedy the evils in question; that the local councils in each State be requested to endeavor to secure its passage therein; and that the secretary print it in suitable form for legislative consideration and furnish copies to each councilor, with a circular letter calling his attention to these resolutions:

AN ACT To create a joint standing committee for the revision of bills.

SECTION 1. Within the first 10 days of every stated or special session of the [here insert the proper name of the legislative body], the president of the senate shall appoint five senators and the speaker of the [house] shall appoint five members of the [here insert house of representatives, assembly or other proper designation of the other house], who shall together constitute a joint standing committee for the revision of bills. Said committee shall have power to

require the assistance of the attorney general and his presence at their sessions, or, in case of his inability to act, to employ counsel and to fix, subject to the written approval of the governor, the compensation to be paid such counsel.

SEC. 2. Every bill shall, after the same shall have passed the legislature, and before it is signed by the presiding officer of either house, be submitted to said joint committee for report thereon, and said committee shall report the same back to the house in which it originated. Said report shall contain such suggestions for amendments as may by said committee be regarded as necessary to make the bill express clearly the intention of the legislature, and harmonize with existing statutes and constitutional provisions, or shall state that in the opinion of the committee no amendments are necessary. Said bill shall then be considered and acted upon as to its final passage.

4. *And it is further resolved*, That a fundamental division should be made between public and private legislation, and that the expediency of passing every local or special bill should be tried as a question of fact before an appropriate legislative committee, who may call in to sit with them experts upon the questions to which the bills relate, and may command the assistance of counsel, and that the expenses of such trials should be borne wholly by the private and local interest promoting the bill; and that no private legislation should be considered except upon a petition to the legislature, previously filed for a reasonable time in the office of the secretary of the state, and accompanied by a bond with surety, to be filed therewith and approved by the attorney general or State treasurer, to secure the payment of all expenses and fees incident to such legislation, which expenses and fees shall be such as the legislature shall by general law determine.—[From American Bar Association. Report of the ninth annual meeting, Aug. 18, 19, and 20, 1886, pp. 284-286, Philadelphia, 1886.]

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#### EXHIBIT 13

[Extracts from "American Legislatures and Legislative Methods," 1907, by Paul S. Reinsch, pp. 325-328.]

The defective character of the legislative product in the United States has led to a serious consideration of methods of relief from this condition. As early as 1882, the American Bar Association passed a resolution recommending "the adoption by the several States of a permanent system by which the important duty of revising and maturing the acts introduced into the legislatures shall be intrusted to competent officers, either by the creation of special commissions or committees of revision, or by devolving the duty upon the attorney general of the State." In 1886 there was submitted to the Bar Association a draft bill by which it was provided that the legislature was to appoint a joint committee on the revision of bills, to which all bills after passing both houses should be referred for examination as to clearness of expression and harmony with existing statutes. This method has actually been employed in the Legislature of New York and in many other States. But it has not solved the difficulty. It is almost impossible to find members of the

legislature who will devote their time to this work during the very part of the session when their attention is most actively engaged by matters before the houses.

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More effective work in improving the legislative product can be done by an expert counsel to whom members may go for advice and the drafting of their bills and to whose scrutiny all measures are to be submitted before final enactment. The attorney general, aside from being a political and partisan official, is too busy with the general duties of his office to give effective assistance in this respect. A thoroughly capable expert who, with his assistants, could give all his attention to this exacting and important work would be able to improve the technical quality of legislation materially. A beginning has been made by the appointment of legislative counsel and draftsmen in New York, South Carolina, Connecticut, New Jersey, and Wisconsin, but a further development of this system is highly to be desired. In the British Parliament no bill is introduced which has not passed through the hands of the official draftsman, a highly salaried and experienced official. He gives enactments the form in which they will surely accomplish the object desired and which will place their provisions in harmony with the rest of the law. The functions of this position require an expert knowledge of the statute and the common law, as well as powers of incisive analysis and lucid, brief, and conclusive statement. The British statutes drawn under this system are indeed models of workmanship, being free from the verbiage, redundancy, and obscurity which characterize so many American enactments. Justice Stephen has stated the requirements of a legislative draftsman in the following language:

“It is not enough to attain to a degree of precision which a person reading in good faith can understand, but it is necessary to attain, if possible, to a degree of precision which a person reading in bad faith can not misunderstand. It is all the better if he can not pretend to misunderstand it.”

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#### EXHIBIT 14.—STATUTES AND RULES RELATING TO BILL DRAFTING

##### NEW YORK

(Consolidated laws 1909. Legislative law, v. 3, p. 2116.)

SEC. 24. *Drafting and revision of bills.*—The temporary president of the senate and the speaker of the assembly shall appoint such number of competent persons as may be needed, not exceeding three, whose duty it shall be during the session of the legislature, on request of either house of the legislature or of any committee, member, or officer thereof, to draft bills, examine and revise proposed bills, and advise as to the consistency or other effect of proposed legislation. Such persons shall receive a compensation to be fixed by the temporary president of the senate and the speaker of the assembly, and shall be entitled to their clerical and other necessary expenses, to be approved by such officers.



## CONNECTICUT

(General Statutes. Revision of 1902, title 2, the general assembly, p. 90.)

SEC. 37. *Duties of clerk of bills.*—The clerk of bills shall assist members of the general assembly in drafting bills for public acts and resolutions of a public nature, and prepare amendments to or substitutes for bills or resolutions at the request of committees. Every bill or resolution favorably acted upon by any committee of the general assembly shall, before being reported to either branch thereof, be first submitted to the clerk of bills, who shall examine such bill or resolution in respect to its form, for the purpose of avoiding repetitions and unconstitutional provisions and insuring accuracy in the text and references, clearness and conciseness in the phraseology, and the consistency of statutes. He shall return to the committee submitting it any bill or resolution that is not in correct form, with such corrections as he may propose in the form of a substitute or as amendments. He shall keep a record of each petition, bill for a public act, and resolution introduced in the house or senate, and such record shall be so kept in detail that it will disclose where said petition, bill, or resolution may be found. Such record shall, at all times, be open to the inspection of members of the general assembly and to all executive State officials. (1901, ch. 1, secs. 2, 3, 4.)

(Joint rules of the senate and house of representatives. Part of Rule X.)

It shall be the duty of the clerk of bills to prepare bills for public acts and resolutions of a public nature and amendments at the request of any committee or member of the general assembly, and before any bill or resolution is favorably reported by the committee to which it has been referred it shall be submitted to the clerk of bills, who shall examine such bill or resolution and make such corrections therein as may be necessary for the purpose of avoiding repetitions and unconstitutional provisions, and of insuring accuracy in the text and references, clearness and conciseness in the phraseology, and consistency with existing statutes. Whenever a bill or resolution not bearing the indorsement of the clerk of bills as having been so examined shall be favorably reported, the clerk of the senate or house, as the case may be, shall immediately transmit the same to the clerk of bills for examination and indorsement.

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EXHIBIT 15.—RECOMMENDATIONS OF THE GOVERNORS OF CONNECTICUT, 1907-1911.

[Governor Woodruff's Message, January, 1907, pp. 5-7.]

## LOOSE AND INEFFECTIVE LEGISLATION

One of the first and most important obligations of the legislature is to sift clean all of the proposed measures by critical analysis, saving what is necessary and throwing away what is not beneficial. The meaning of every measure should be made clear before it is presented for final action.

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In 1883 provision was made by law for the appointment of a clerk of bills to see to it that all bills for public acts were in proper form.



In 1895 his duties were increased and his salary raised to \$2,500. These duties, as now defined by section 37 of the General Statutes, are such that if properly discharged by a capable man possessing the necessary skill and experience for dealing intelligently with forms of legislation, the wording of every public statute would be plain and its meaning clear. In fact such has not always been the result. Instances have occurred in which the courts have been called on to determine the intent of the legislature, because it was expressed in phrases of uncertain signification, and in several instances litigation has been necessary where the subject of the law and the interests involved were of great importance.

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To cover all this loose legislation and for fear that there may have been something passed which was not in proper form it is usual at the end of the session to pass an act—a healing act—which by its beneficent effects helps out the case and operates to negative a possible blunder.

But I would suggest as a remedy for such conditions that the position of clerk of bills and perhaps the engrossing clerk be made a permanent position, or that one or both should continue in office during good behavior. I find upon investigation that this plan has been tried in some other States, more especially in the State of Wisconsin, where the office of legislative librarian was created with a view of securing legislation in proper form.

I realize that great care should be taken in selecting a man to fill such a place. He must be a man of ability and honesty. And he should not be removable except for cause. Wisconsin has made herself distinguished for the good form of her statute laws. That State has accumulated much valuable material for the information of her legislators, arranged in a card system so that officials in charge are able to respond promptly to any inquiry for information on a subject likely to come before the general assembly or the executive departments. Laws of other States and countries are included in the indices, thus giving a safe guide to those drawing or reporting a new statute and enabling them to follow the wording of one that has stood the test of time and use.

#### LEGISLATIVE PUBLICITY

There is too much loose, inefficient, and conflicting legislation. In my opinion it would be a step in advance if provision should be made so that all bills intended for presentation to the general assembly should be referred first to a permanent clerk of bills, who should be an able lawyer and parliamentarian. Were such a department, with a capable official at its head, available for the members of the legislature to consult with, he could show the member who proposes a new law wherein it conflicts with existing laws; if such be the case, and he could redraw the proposed bill if it contained a flaw and could also refer in connection with it to bills in other States on the same subject matter.

Moreover, a permanent clerk of bills would in effect constitute a bureau of information that would be available not only to members of the legislature but to all the people of the State.

## THE DRAFTING OF STATUTES

Every statute, being the expression of an act of command by a sovereign State, ought to be so phrased as to make its meaning clear and unmistakable.

To secure this there was created in 1882 (Public Acts, p. 215) the office of clerk of bills, with an annual salary of \$500. In 1895 (Public Acts, p. 639) his salary was raised to \$2,500 for each session of the assembly, and his duties are particularly and plainly specified in our general statutes (sec. 37). If those duties were properly performed by a competent lawyer (and only a lawyer would, in my opinion, be competent to perform them), questions of statutory construction or conflict could seldom arise. They have arisen often since this office was created, and greatly to the inconvenience of the public. To answer them is often difficult and throws a heavy burden on the courts.

The compensation of the clerk of bills is sufficient to make the place attractive to a competent man. It would be still more attractive if a person once appointed should hold during good behavior. I concur in the recommendation made by Gov. Woodruff in his inaugural message four years ago, and by Gov. Lilley in his, delivered two years ago, that the term of office be thus lengthened.

I also venture to call the attention of those who may be appointed upon the two joint committees, on the judiciary and on engrossed bills, to the high importance of so exercising their power, under General Statutes, section 122, of choosing the clerk of bills as to give to the State this year the best man whom they can get to accept the position. A sort of custom has grown up by which of late it has been commonly filled by appointing the clerk of the preceding senate, who in turn has generally been the clerk of the house in a previous general assembly. The qualifications to be looked for in one acting as the clerk of a legislative house are of course by no means the same as those which should be possessed by a clerk of bills. The same man may have them in equal degree, but it would be unusual.

The State has confided the election of this official and of the engrossing clerk to the same body, and has required that it be made by ballot, in order to secure individual independence of action. The scheme of selection has been carefully planned, and if followed in the spirit in which it was conceived seems calculated to result in a wise choice.

## EXHIBIT 16 (PART I).—BILL DRAFTING IN GREAT BRITAIN

[Extract from "Legislative Methods and Forms," by Sir Courtenay Ilbert, 1901, pp. 84-95.]

## PARLIAMENTARY COUNSEL'S OFFICE

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The office was constituted by a treasury minute dated February 8, 1869, and issued when Mr. Gladstone was first lord of the treasury and Mr. Lowe (afterwards Lord Sherbrooke) was chancellor of the exchequer. Mr. Thring was appointed head of the office, with the title,

revived for that purpose, of parliamentary counsel to the treasury, and was given a permanent assistant, and a treasury allowance for office expenses and for such outside legal assistance as he might require. The whole of the time of the parliamentary counsel and his assistant was to be given to the public, and they were not to engage in private practice. The parliamentary counsel was to settle all such departmental bills, and draw all such other Government bills (except Scotch and Irish bills) as he might be required by the treasury to settle and draw. The instructions for the preparation of every bill were to be in writing and sent by the heads of the departments to the parliamentary counsel through the treasury, to which latter department he was to be considered responsible. On the requisition of the treasury he was to advise on all cases arising on bills or acts drawn by him, and to report in special cases referred to him by the treasury on bills brought in by private members. It was not to be part of his duty to write memoranda or schemes for bills, or to attend parliamentary committees, unless under instructions from the treasury.

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The staff of the parliamentary counsel's office still remains practically the same as it was when the office was first established in 1869. The permanent staff consists of the parliamentary counsel and the assistant parliamentary counsel, with three shorthand writers, an office keeper, and an office boy, and these together run what may be called the legislative workshop. The amount allowed for payments to members of the bar, working under the direction and on the responsibility of the parliamentary counsel, is usually estimated at an annual sum of £1,500; but this amount is not always expended. Of the barristers employed, two at present attend regularly at the office, doing such work as may be required of them. But their attendance is purely voluntary; they are under no permanent engagement; they are paid by fees in accordance with the amount of work done by them, and they have their own chambers and are at liberty to take, and do take, outside work.

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Some time in the month of November the parliamentary clerk to the treasury usually sends round a circular to the other departments, requesting them to inform the treasury what departmental bills are likely to be required. All formal instructions for Government bills are sent by the treasury to the parliamentary counsel, who is thus placed in the position of being draftsman to the Government and not to any particular department.

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The procedure adopted on receipt of the instructions will vary according to the character and importance of the measure. There will usually be a preliminary conference either with the Minister who is to take charge of the bill, or with the permanent head of his department, or with both. In the case of minor departmental measures, the instructions first received may suffice for the immediate preparation of a draft much in the form in which it will be submitted to Parliament as a bill. In the case of more important and elaborate measures, the stage of ges

tation is naturally longer. It is often necessary to prepare memoranda stating the existing law, tracing the history of previous legislative enactments or proposals, or raising the preliminary questions of principle which have to be settled. The first draft may take the form of a rough "sketch" or of "heads of a bill." The original draft, whether in the form of a bill or otherwise, is gradually elaborated after repeated conferences with the Minister, and with those whom he takes into his confidence.

A measure will often affect more than one of the Government departments, and in those cases the departments affected will have to be consulted. The responsibility for seeing that this is done rests, primarily, with the initiating department; but, as a matter of convenience, the necessary communications are often made by the draftsman. In particular, the attention of the treasury ought to be directed to any legislative proposal involving expenditure of public money, and the parliamentary counsel, as an officer of the treasury, is charged with the responsibility for seeing that this duty is not overlooked. When there is a conflict between the views of different departments on a subject of legislation, the parliamentary counsel, from his neutral position, may often find it possible to suggest a mode of harmonizing them. And his general responsibility for all Government bills enables him to guard against the risk of one department bringing forward proposals inconsistent with those brought forward by another.

When the draft of a bill has been finally or approximately settled, it is usually circulated to all the members of the cabinet for their information before introduction into Parliament, and the parliamentary counsel supplies the executive department concerned with a sufficient number of copies for this circulation.

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Of course, however, the labors of the draftsman do not end at this stage. The publication of a bill brings suggestions for amendment, which may be forwarded by the minister or department for consideration. After the second reading these suggestions take the form of amendments on the notice paper, which will have to be daily scrutinized. In anticipation of the committee stage, the draftsman will often find it prudent to prepare, for the purpose of refreshing his own memory, and for the use of the minister in charge, notes on the several clauses, explaining the origin and object of the proposals which they embody, referring to the precedents on which reliance can be placed and noting the arguments which may be used or which may have to be met. As the committee stage approaches, and when it has been reached, the amendments will be the subject of discussion with the minister, and alterations or consequential amendments will have to be framed. If the bill goes to a committee of the whole house or to one of the grand committees, the draftsman may, perhaps, be expected to attend the debate and to give such assistance as he can in the way of framing or modifying amendments or meeting points.

Where a bill is much amended in committee, it will require minute examination after the committee stage, for the purpose of seeing



whether there are any errors to be corrected, inconsistencies to be removed, or consequential alterations to be made; and amendments will have to be framed for insertion at a later stage. Notes will also have to be written on various points; and the literature which thus gathers round a bill often attains to formidable dimensions. When a bill of great importance is in progress, it requires the constant and unremitting attention of the parliamentary counsel, to the exclusion of all other work.

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The minute of 1869 directed that the parliamentary counsel should report in special cases referred to him by the treasury on bills brought in by private members. But at present, except in the case of such references, the parliamentary counsel is in no way responsible for the preparation or criticism of such bills.

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The objects aimed at by Mr. Lowe when he established the parliamentary counsel's office in 1869 appear to have been (1) economy; (2) better control over Government legislation with respect both to policy and to finance; and (3) improvement of the form of statutes.

All these objects have been substantially attained.

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#### EXHIBIT 16 (PART 2).—BILL DRAFTING IN BRITISH COLONIES

In 1895 a series of questions relating to statute law was, at the instance of the Society of Comparative Legislation, London, sent by the British colonial office to the various colonial governments. Among these questions was the following:

##### III.—METHODS OF LEGISLATION

(a) By whom are drafts of legislative measures prepared? Is there any official draftsman? If so, by whom is he appointed, to whom is he responsible, and what are his staff and duties? Do his duties extend to measures introduced by private or nonofficial members of the legislative body?

The replies received were published in the journal of the Society of Comparative Legislation, volumes 1-2, and new series, volumes 1-2. Those received in answer to this particular question from the self-governing colonies are as follows:

##### BRITISH NORTH AMERICA

*Dominion of Canada.*—For each house of the Canadian Parliament there is a law clerk, an officer whose duties include those of a parliamentary counsel as well as those of a legislative draftsman. The law clerk of the senate is appointed by that body. The law clerk of the lower house, in which the great majority of measures are introduced (10 out of 12 of the ministers usually belonging to that house), is also law clerk of the Government, and formerly (before confederation) held separate appointment as such from the Government. He is appointed



by Mr. Speaker, and has one assistant. The preparation of measures for private members is not part of the law clerk's duties.

*Newfoundland.*—There is an official draftsman called the law clerk of the legislature, appointed by and responsible to the governor in council. His duties are to draft all bills introduced into both branches, including those introduced by private members; but in practice measures are frequently drafted by private members, with or without the assistance of the law clerk. He has no staff or assistants. The minister of justice has a general supervision of all legislation, and particularly of Government measures.

#### AUSTRALIA

*New South Wales.*—1. Drafts of legislative measures are prepared by the members of Parliament introducing them, or by some persons acting under their authority or by their direction.

2. There are two official draftsmen named "Parliamentary draftsmen."

3. They are appointed by the governor with the advice of the executive council.

4. They are in the department of the attorney general, and are responsible to him.

5. The staff are the two draftsmen and an assistant.

6. The duties of the draftsmen are (1) the preparation of bills for the ministers of the Crown; (2) the preparation of bills for private members on the request of the attorney general; (3) reporting to ministers on the introduction of any bill by a private member and on its passage from the legislative assembly to the legislative council; (4) reporting to the attorney general at his request on all by-laws and regulations of public bodies submitted to him for his opinion or approval; (5) reporting on any special matter submitted by any minister to the parliamentary draftsman.

7. The duties of parliamentary draftsmen extend, as above mentioned, to measures introduced by nonofficial members of Parliament.

*Queensland.*—Drafts of legislative measures are prepared, in the case of Government measures, under the direction of the department concerned, and usually by a member of the bar, under the supervision, if desired, of the Crown law office. Measures introduced by private members are usually prepared under their own direction, aid being given occasionally from the Crown law office. There is no permanent parliamentary draftsman.

*South Australia.*—Drafts of legislative measures are prepared (1) by the attorney general; (2) by some member of the legal profession specially selected for a particular bill; (3) by some competent official, though not a member of the legal profession, who has special knowledge, e. g., the clerk of the parliaments, the principal returning officer of the Province, the military commandant; and bills of supply and appropriation by the clerk of assembly; (4) public bills introduced by private members are drafted by themselves or by whom they appoint.

There is no official draftsman.

*Victoria.*—Measures for submission to Parliament are prepared by the parliamentary draftsman under the direction of ministers. The parliamentary draftsman is an officer of the public service, appointed by the governor in council, and attached to the department of the attorney general, to whom he is directly responsible. His duties are to prepare all Government bills and draft amendments therein. He also, when desired, drafts bills for private members, and as a general rule of all such bills, by whomsoever drafted, are examined by him, and, when necessary, specially submitted to the attorney general or the premier for his consideration.

*Western Australia.*—By various persons, viz, the attorney general, a minister, or by a private member. There is now an official draftsman, appointed by the governor in council, on the recommendation of the attorney general, to whom he is responsible. He has no staff, and his duties are indeterminate. They do not extend to measures introduced by private members.

## STATISTICS

### EXHIBIT 17

#### *Statistics of bills and joint resolutions introduced in Congress*

	Fifty-sixth Congress	Fifty-seventh Congress	Fifty-eighth Congress	Fifty-ninth Congress	Sixtieth Congress	Sixty-first Congress
Senate bills.....	6,070	7,447	7,295	8,627	9,541	10,906
Senate joint resolutions..	166	170	116	98	140	147
House bills.....	14,339	17,560	19,209	25,897	28,440	33,015
House joint resolutions..	318	283	231	257	267	295
Total.....	20,893	25,460	26,851	34,879	1 38,388	1 44,363

<sup>1</sup> In addition to the above, the simple and concurrent resolutions introduced in the Senate and House of Representatives numbered in the Sixtieth Congress 1,117 and in the Sixty-first Congress 1,504.

#### *Statistics of laws passed by Congress*

	Fifty-sixth Congress	Fifty-seventh Congress	Fifty-eighth Congress	Fifty-ninth Congress	Sixtieth Congress	Sixty-first Congress
Public acts.....	383	423	502	692	350	525
Public resolutions.....	60	57	72	83	61	69
Total public.....	443	480	574	775	411	594
Private acts.....	1,504	2,309	2,799	6,248	234	285
Private resolutions.....	1	1	1	1	1	3
Total.....	1,948	2,790	3,374	7,024	646	882

*Statistics of legislation, 1906-7 and 1907-8, giving number of laws and resolutions passed*

	1906-7	1907-8
Alabama.....	766	92
Arizona.....	115	
Arkansas.....	496	
California.....	659	13
Colorado.....	266	
Connecticut.....	782	
Delaware.....	288	
Florida.....	298	
Georgia.....	290	293
Idaho.....	197	
Illinois.....	270	59
Indiana.....	300	7
Iowa.....	296	5
Kansas.....	444	87
Kentucky.....		78
Louisiana.....		344
Maine.....	693	
Maryland.....		703
Massachusetts.....	726	805
Michigan.....	790	11
Minnesota.....	483	
Mississippi.....		296
Missouri.....	285	
Montana.....	269	
Nebraska.....	206	
Nevada.....	299	27
New Hampshire.....	292	
New Jersey.....	298	333
New Mexico.....	118	
New York.....	772	527
North Carolina.....	1,572	215
North Dakota.....	282	
Ohio.....		318
Oklahoma.....		235
Oregon.....	294	19
Pennsylvania.....	741	
Rhode Island.....	227	287
South Carolina.....	230	713
South Dakota.....	251	
Tennessee.....	667	
Texas.....	250	103
Utah.....	177	
Vermont.....	516	
Virginia.....		404
Washington.....	267	
West Virginia.....	119	49
Wisconsin.....	724	
Wyoming.....	109	
United States Congress:		
Public.....	305	209
Private.....	2,676	61

## BILLS INTRODUCED IN THE SIXTY-FIRST CONGRESS

## EXHIBIT 18

A BILL To establish a department in the Congressional Library for the purpose of gathering and indexing statute-law material and legal material of a comparative nature and to provide for draftsmen for congressional measures and to otherwise assist and aid Members of Congress and public officials.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby created a separate department of the Congressional Library to be known as the Legislative Division of the Congressional Library. It shall have offices in the Library of Congress.

SEC. 2. That the Librarian of the Library of Congress shall appoint a responsible chief of the Legislative Division of the Congressional Library. The chief shall have a thorough training and a practical education in the principles of government and experience in the general field of political science and in the drafting of statute law. He shall have a knowledge of comparative law and governmental institutions and such other experience and training as to fit him thoroughly for the duties of said office. He shall be appointed without reference to party affiliations and shall be exempt from civil-service examination or classification, and shall hold office during good behavior. His salary shall be fixed by the Librarian of Congress, with the advice and consent of the President.

SEC. 3. That the chief shall have authority to appoint such other secretaries, technical assistants, and investigators and draftsmen as may be necessary. He shall have authority, under the conditions hereinafter specified, to employ special technical assistants outside the classified service from time to time as emergency arises. He shall gather technical material bearing upon legislation in such a manner that the President and the different departments of the Government and Congress will have ready and available such material, and to this end he is authorized to translate, gather, and index foreign data and matter relating to legislation. Other departments of the Government at Washington and elsewhere shall render all reasonable assistance to the Legislative Division of the Congressional Library in any matters of research connected with duties of said department, and public records shall be open at all times to said department.

SEC. 4. That no bill shall be drafted for Members of either House by said department save only through written instructions accompanied by a rough draft or rough notes of the provisions desired in such bill, signed by fifteen Members of the House of Representatives or by five Members of the Senate. All such rough drafts and instructions shall be kept in the permanent file of the department for future reference. No rough drafts shall be made public save upon direction from the Members requesting said drafts until the bill shall have been printed by Congress, but until that time all such data shall be considered confidential. The department shall not draft private, local, or special bills, or bills for private persons. Bills for public officials shall be drafted only on written directions from the President.



SEC. 5. That special research may be made on direction of the President or on the direction of either House of Congress. Such special research may be made through the regular office force or by special technical workers employed from time to time in such manner as may be deemed necessary and as emergency arises.

SEC. 6. That the Legislative Division of the Congressional Library, in the research carried on and in furnishing assistance in the formulation of bills, shall not furnish arguments for or against any line of policy or bill or resolution, but shall confine itself to furnishing technical, documentary, or bibliographic material or information, and to drafting bills according to the directions submitted.

SEC. 7. That said department is authorized, in addition to the powers now conferred upon the Congressional Library, to make indexes and summaries of laws, cases, and legislative matter of this country and of the States thereof and of foreign countries and to publish the same.

SEC. 8. That there is hereby appropriated to the Library of Congress for the establishment and maintenance of the Legislative Division of the Congressional Library the sum of one hundred and fifty thousand dollars annually: *Provided*, That in case of emergency or in case of research into matters of legislation or administration undertaken upon the order of the President or of Congress an additional sum sufficient to carry out the purposes of this act is hereby appropriated.

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[Extract from the Daily Congressional Record, Mar. 3, 1911, p. 4284.]

A BILL, To create a United States Legislative Reference Bureau, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a bureau is hereby created, to be known as the United States Legislative Reference Bureau, to be administered by a chief appointed by the President of the United States.

SEC. 2. That it shall be the business of this bureau to locate, catalogue, and index all material in various Government departments in the shape of bills, laws, debates, departmental research, findings of commissions, consular reports, treatises in legal brief and scholarly periodical, and so forth, touching upon problems of current legislation; to gather, catalogue, and index such further material pertaining to legislative experience at home and abroad as shall seem expedient; to present to Congress at its direction a statement of the material in hand on the subject designated and a compilation of the legislative and administrative experience in such case; to provide Members of Congress, at their request, with such information as the bureau possesses and a bibliography of material on any subject desired; to aid in every possible way by the collection of information and the service of expert advice in making exact more careful legislation.

Mr. OWEN. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Oklahoma will be stated.

The SECRETARY. On page 225, after line 2, it is proposed to insert: "To provide a legislative reference bureau as a part of the Congressional Library, under the direction of the Librarian of Congress, \$10,000."

The amendment was agreed to.

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A BILL To establish a bureau for the drafting of bills.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby created a bureau to draft bills as hereinafter provided.

SEC. 2. That the said bureau shall be under the direction of a chief draftsman, who shall be appointed by [? the "President of the United States," (or) the "Chief Justice of the United States," (or) the "President of the Senate and the Speaker of the House of Representatives jointly"], without reference to party affiliation and solely on the ground of fitness, by training and experience, to perform the duties of the office. He shall receive a salary of five thousand dollars per annum.

SEC. 3. That there shall be in said bureau such legal and clerical assistants as may from time to time be necessary. They shall be appointed by the chief draftsman, who shall consider in their selection solely fitness for the work to be done and shall fix the compensation to be paid to each.

SEC. 4. Public bills, or amendments to public bills, shall be drafted by the bureau, under the direction of its chief, whenever any committee of either House of Congress or five Members of the Senate or ten Members of the House of Representatives or the President of the United States shall make request and shall furnish to the chief draftsman written instructions setting forth the provisions desired. And in all cases such instructions shall be considered confidential until the bill shall have been presented to Congress.

SEC. 5. The bureau shall not draft private or local bills or bills for private persons.

SEC. 6. Estimates of the appropriations necessary for the maintenance of the bureau shall be submitted annually by the chief draftsman in connection with the bill making appropriations for the legislative, judicial, and executive expenses of the Government.

SEC. 7. The chief draftsman shall make to Congress at the beginning of each regular session a report for the preceding fiscal year as to the affairs of the bureau, and said report shall also include a detailed statement of appropriations and expenditures.

SEC. 8. In furtherance of the work of the bureau and otherwise to promote exact legislation the Librarian of Congress is authorized to employ competent persons to prepare indexes of comparative legislation, digests and compilations of law, and legislative reference bulletins on special subjects, and to provide in his annual estimates for the Library for the compensation of such persons, for the acquisition of material required for their work, and for other expenses incidental thereto.

[Provision proposed for the regular legislative appropriation, etc., act, in accordance with the foregoing.]

To enable the Librarian of Congress to employ competent persons to prepare indexes of comparative legislation, digests and compilations of law, and such legislative reference bulletins on special subjects as may further the work of the bill-drafting division created by the act approved ——— and otherwise promote exact legislation by the acquisition and supply of useful data, including subscription to and purchase of publications and other necessary material, and for traveling expenses, transportation, stationery, postage, and incidentals, ——— dollars.

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A BILL To establish a division in the Library of Congress for the drafting of bills.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there is hereby created a division of the Library of Congress to draft bills as hereinafter provided.

SEC. 2. That the said division shall be under the direction of a chief draftsman, who shall be appointed by the Librarian of Congress without reference to party affiliation and solely on the ground of fitness, by training and experience, to perform the duties of the office. He shall receive a salary of five thousand dollars per annum.

SEC. 3. That there shall be in said division such legal and clerical assistants as may from time to time be necessary. They shall be appointed by the Librarian of Congress, who shall fix the compensation to be paid to each.

SEC. 4. Public bills, or amendments to public bills, shall be drafted by the division, under the direction of its chief, whenever any committee of either House of Congress or five Members of the Senate or ten Members of the House of Representatives or the President of the United States shall make request and shall furnish to the chief of the division written instructions setting forth the provisions desired. And in all cases such instructions shall be considered confidential until the bill shall have been presented to Congress.

SEC. 5. The division shall not draft private or local bills or bills for private persons.

SEC. 6. Estimates of the appropriations necessary for the maintenance of the division, and for any additional work in the Library auxiliary thereto, shall be included in the estimates for the Library annually submitted by the Librarian of Congress.



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